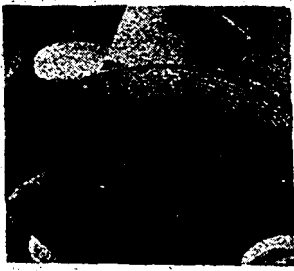


Howard Bickler, St. Croix Attorney.



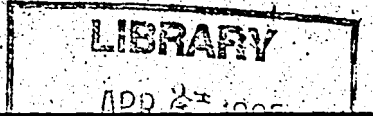
Gene Taylor, St. Croix Tribal Chairman.



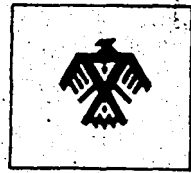
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ST. CROIX CHIPPEWA

A SPECIAL LOOK AT THE "LOST TRIBE" page 7



MASINAIGAN



STATE HISTORICAL SOCIETY OF WISCONSIN
A CHRONICLE OF THE
LAKE SUPERIOR
OJIBWAY

FEBRUARY/MARCH, 1985



A 1984 negotiating session at Lac Courte Oreilles.

DNR NEGOTIATIONS IS IT WORTH THE TRIP?

NEGOTIATIONS: A Perilous Journey
Commentary by Walt Bresette, Co-editor

For many reasons, my office has been somewhat removed from recent negotiations between Wisconsin and the six Chippewa tribal governments. This distance has been refreshing, confusing and, as I began preparing this article, somewhat scary.

For the uninitiated, the Chippewa and the State of Wisconsin have been negotiating the exercise of Chippewa treaty rights since October, 1983. The state is represented by the Department of Natural Resources. Representing the tribes is a group called the Voigt Inter-tribal Task Force.

Based on recent reports and heresay, it's debatable that any new agreement on open water fishing will have much substance. Last year the state won this go-round by forcing the tribes to court, and ultimately back to the negotiating table where they pretty much dictated the details of the agreement.

Over the course of all the talks, the process has been roundly criticized. Anti-Indian groups, sports groups and the media have lead the charge for "open negotiations." Some tribal members want no negotiations, saying that the tribes will give up what has already been affirmed by the courts. The negotiators, no doubt tired with annually going over the same ground, seem to be losing patience with each other.

Despite criticism and the other factors, the negotiations have gone on; as we go to press, seven agreements have resulted. After each new pact is signed, both sides speak favorably of the process. As each new set of talks near, the critics renew the charges. We are told regularly that negotiations is the best way to go, unlike battles in other states.

However, in looking at the negotiations, there is growing evidence that may add more critics. Quite simply, it appears that the DNR is unwilling to deal honestly with the difficult issues. Rather, they choose to remain in relative safe political waters, while manipulating the media, the public and the tribes—all at the cost of meaningful negotiations.

Some tribal members believe that the DNR doesn't want or need an open water agreement; they're going through the process so that the blame can be placed on the tribes if they insist on exercising their rights. Bad faith bargaining is the growing rumble of criticism I hear as what's going on at the talks trickle down. Media leaks, criticism of tribal courts and political, rather than biological, negotiating positions add to the criticism against the DNR.

The role of the DNR seems to change with the seasons; however, they're getting equally predictable. In between the talks, they spend time explaining to an irate public that although they disagree with the Voigt decision, they have to abide by it. Rarely do we hear the DNR confidently defend the agreements or the process used to achieve them; often they hammer away, in the media, at the tribe's governmental credibility. As a result, the public gets irate.

Leading up to the current open water talks, George Meyer, lead negotiator for the DNR, in a letter to the Voigt Task Force, called for "Open Negotiations." This letter, as usual, reached the press as quickly as it reached the Task Force. In effect, Meyer began the negotiations by lining the public up against the tribes by using the media.

A response to the open negotiations proposal is on page two. However, it's worth noting that Meyer, an attorney and no doubt a schooled negotiator, knew the the contradictory proposal had no merit of substance. One tribal leader responded by challenging anyone, anywhere to cite any negotiations that are "open."

Another recent torpedo which hit the negotiating process was the DNR's media campaign to undermine the credibility of tribal courts. The DNR criticism, not directed to the tribes, was leaked to a Minocqua radio station, in the midst of negotiations. Despite efforts to smooth over this latest flap, the DNR knew precisely the damage it would cause to the tribes and the negotiating process. Hardly, it seems, good faith bargaining or ways to achieve agreements for a meaningful exercise of the treaty rights.

Based on these types of incidents, it appears that the DNR is content with no agreement, and is raising enough side issues to keep the tribes on the defensive while gaining the public's favor. As in the past, the DNR is in the position to blame the tribes for either agreements they don't like or negotiations that aren't successful.

If such tactics continue, it's certain that tribal members will pressure the Task Force to reconsider the value of the negotiating process. By only negotiating away the treaty rights, with little or no give from the state, there exists *de facto* abrogation; either a more meaningful process should be developed or the tribes should say "Uncle."

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In early January the Public Information Office had the opportunity to sit down for a long talk with Jim Schlender, Voigt Task Force Chairman, and discuss a number of issues. The article below contains excerpts from that conversation with Jim, who has been involved with the implementation of the Voigt Decision from the beginning. Primarily, we asked him to give his impression of changes he has noted in negotiations and in the area of public reaction.

LOOKING BACK: SCHLENDER ON NEGOTIATIONS AND TREATY ISSUES

"It's best to keep your response in the mainstream." is one of several conclusions drawn by Jim Schlender, Chairman of the Voigt Task Force, after over a year of negotiation with the Wisconsin Department of Natural Resources (DNR) for a series of interim agreements on Chippewa hunting and fishing rights.

Schlender was appointed in 1983 by the Lac Courte Oreilles Tribal Council, the lead tribe in the Voigt Case, to look after tribal interest in Voigt matters. He was later elected Chairman of the Task Force. Schlender says that his approach has changed since the beginning of negotiations in 1983.

He says he was much more militant at the beginning and anxious to get everything all at once. But his approach has mellowed with experience. He says, "It is clear to see that it is best to work within the system. Radical ends on both sides are out of the system. It's best to keep in the mainstream."

NEGOTIATIONS

From the onset of the first negotiated deer agreement, Schlender feels that the tribes have learned what is and what is not negotiable. He says that in the beginning there was "much controversy" between the tribes themselves to reach and negotiate a position. Today, the tribes are able to present themselves at the negotiating table as a more unified body, aware that some items may not be negotiable, and that those items must be litigated. One "non-negotiable item," according to Schlender, is spearing during spawning.

Schlender feels that the DNR negotiators have experienced similar sorts of problems and have had to move from a position of refusing to give anything to a more ameliorative position on some issues.

On the whole, Schlender concludes that the tribal negotiators and the DNR team have developed "more of relationship" based on knowing each other over a period of time and being able to have certain expectations.

Schlender anticipated that the use of a mediator in the '85 open-water negotiations may help improve communications between the negotiating parties. He feels that at times "wrong signals" have been sent or perceived, "between

continued on back page

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AN EMPHATIC NO TO PUBLIC NEGOTIATIONS: SCHLENDER

James Schlender, Chairman of the Voigt Task Force, replied with an "emphatic no" to the Wisconsin Department of Natural Resources (DNR) request to open negotiations to the public. Negotiations for the controversial open-water fishing agreement has been slated for early February.

In a letter from George Meyer, Administrator of the DNR's Division of Enforcement and Chief Negotiator, Schlender was asked to relay the "tribes' reaction" to the request for public negotiations over the 1985 open-water fishing agreement. Schlender's response, dated January 18, 1985, is as follows:

Dear George:

By your letter of January 14, 1985, you have requested that the 1985 Open Water Fishing negotiation sessions be open to the public. Presumably this request stems from public statements which Governor Tony Earl made to the citizens group known as Equal Rights for Everybody (ERFE). The Voigt Inter-Tribal Task Force response has analyzed and explained this situation with that particular group in mind, but the reasoning would apply as well to any other citizen group as well as to the general public.

In response to your request whether the public in general could sit in upon the 1985 Open Water Fishing Negotiations between the six Chippewa Tribes of Wisconsin (through their representatives known collectively as the Voigt Inter-Tribal Task Force) and the State of Wisconsin (through its representatives, the Department of Natural Resources), the answer to this question is an emphatic no, an answer which we hope the State of Wisconsin would also embrace as its own.

The Voigt Inter-Tribal Task Force, composed of representatives of the Chippewa Tribes, negotiate agreements which must be ratified by individual tribes in the exercise of their sovereign powers. This process is mirrored by your representatives as well. The State of Wisconsin is entitled and empowered to deal with the tribes in this fashion as an exercise of the State's sovereign power. Through this process of negotiation, both the tribes and the State have recognized the sovereign power of the other.

The tribes honor and respect the state's sovereign power and would do nothing to impugn or diminish that power through the process of negotiation. The mutual honor and respect of sovereignty, whether tribal or state, is the underpinning and foundation of this government-to-government relationship. It is this sovereignty which entitles the State and the tribes to be at the bargaining table.

The negotiations are premised on the fact that the State and the tribes share a right to the resource and each has a particular power over that resource; the State by exercise of its sovereign power regulates resource users and the tribes, by treaty with the U.S. Government has reserved a share of the resources and the power to regulate tribal member use of the resource.

Perhaps more fundamentally, the state and the tribes are involved in litigation about resource use and regulatory power. Negotiations with a view to interim and/or final settlement are, by the nature of litigation and the process inherent in its prosecution, conducted in private. The only persons privy to the negotiations are parties and the court cannot be informed of the positions which are put forward but not included in any agreement. This has been recognized in the past negotiations, through the understanding that the positions advanced during the sessions were confidential, and that the agreement terms had no precedential effect.

We are unable to discern any of the foregoing characteristics in any citizen group's possible interest in future negotiations. Providing for observers would seem to diminish the State's sovereign power since it would appear to admit that the State of Wisconsin does not represent all its citizens. Perhaps you could assure interested groups a voice through your citizen advisors group. The Voigt Inter-Tribal Task Force could consider such a proposal and communicate its views to you if you would so desire.

The DNR and the state surely must realize the benefits of closed negotiations which promotes open and candid communication between the parties which has already resulted in eight agreements. The tribes are aware of no other negotiations in aid of litigation which the state has entered into which are similarly open to the public. The state must understand that subjecting these negotiations to the glare of public scrutiny and particularly the jaundiced view of ERFE can only result in a less candid exchange of views. We strongly disagree with Governor Earl's views that open negotiations "would help to eliminate misunderstanding, fear, and suspicion." ERFE is clearly a group which has undertaken a deliberate campaign of misinformation, fear, and suspicion. Regardless of whether the public or the press are present at negotiations, we feel that would force the real negotiations to occur in the individual caucuses, and only posturing for effect would occur in public view.

Certainly, ERFE represents some views of Wisconsin citizens, just as I am certain that the American Indian Movement represents some views of tribal members. However, although we anticipate that AIM may welcome dialogue with ERFE, we would feel it both improper and a diminishment of tribal sovereignty to allow AIM to usurp the tribes' representative powers and responsibilities by observing and participating in the negotiations. This representation is properly the duty and the power of elected tribal leadership, especially in the face of divergent views. This is exactly mirrored in the State's relationship with voluntary membership groups included in its citizenry.

For the foregoing reasons, the Voigt Inter-Tribal Task Force must firmly and respectfully object to the presence during negotiations of any group not directly representing the State of Wisconsin and duly empowered to deal with the issues at hand. We trust that the State has not empowered any citizen group with any authority in this matter. We know that no such group is a party defendant and we would anticipate vigorous objection to anyone's intervention into the process of on-going litigation.

In the sincerest hope that our position and our reason for taking that stand are entirely clear from this letter,

I remain,

Very truly yours,

James H. Schlender, Chairman
Voigt Inter-Tribal Task Force

KEWEENAW BAY HOSTS MEETING

JANUARY COMMISSION MEETING

The first 1985 meeting of the Great Lakes Indian Fish & Wildlife Commission was held on January 30 and 31, at the Keweenaw Bay Tribal Center in Baraga, Michigan.

Members of the Commission include Grand Portage and Fond du Lac in Minnesota; Red Cliff, Bad River, St. Croix, Lac Courte Oreilles, Lac du Flambeau, and Mole Lake in Wisconsin; and Keweenaw Bay and Bay Mills in Michigan.

The Commission has two standing committees: The Lakes Committee, comprised of member tribes with treaty fishing interests on the Great Lakes. The other committee is known as the Voigt Task Force, comprised of tribes with inland, off-reservation treaty rights in ceded territory.

Preceding the full Commission meeting there were two other meetings which are reported elsewhere in this newspaper. On January 29th, Red Cliff and Bad River met with the Keweenaw Bay Tribal Council to continue work on a Michigan assessment fishery. Also on the 29th, the Lakes Committee met to review ongoing projects and begin setting goals for 1985.



Executive Administrator orchestrates Commission through lengthy January meeting at Keweenaw Bay Tribal Center. Commission chairmen, Joe Corbine,

looks on. Corbine, Bad River Tribal Chairman was also elected to chair the Lakes Committee of the Commission.

VOIGT TASK FOR REPORT

Jim Schlender, task force chairman, read a report of task force activity for calendar year 1984. A summary of his report is printed elsewhere in this edition.

DIVISION REPORTS

The four division heads of the Commission also submitted written reports. These too are summarized in additional stories. The following are additional comments or questions of the division heads during their presentation.

Jon Gilbert, GLIFWC Wildlife biologist, said he was completing a final statistical report on the 1984 treaty deer hunt. Although these were no major problems, he will be recommending ways to better maximize opportunities for tribal members to take more deer.

Walt Bressette, public information office, reported on the growing anti-Indian efforts nation-wide. He explained a report he filed on initiative 456. He also announced a working arrangement with the Wisconsin Indian Resource Council in launching the 1985 Great Lakes Campaign for Tribal Survival.

Dave Siegler, policy analyst, reported that efforts are well underway in developing wildlife and waterfowl regulations in Wisconsin. He also talked about the efforts in resolving jurisdictional concerns between Wisconsin and Michigan Treaty fishing tribes.

Mike Cardinal, law enforcement, reported that one of his main concerns is working out an

agreement with WDNR law enforcement. He said that major problems still exist, despite many attempts at accomplishing cross-deputization.

THE NORTHERN VOIGT BORDER

A potential controversy over naming Lake Superior as part of the Voigt litigation was temporarily averted when Red Cliff gained general support in keeping it out.

Milt Rosenberg, Red Cliff attorney, asked the Commissioners to refrain from that decision until a real issue emerged that needed resolving.

He said that because the "Gurnoe decision" has already established the rights, there is no need at this time to bring this question before the courts on remaining Voigt litigation. If necessary, he said that the issue can be reserved and brought up at a future date, without compromising any individual tribes' rights.

ADJOURNMENT MINUS A BUDGET

The final day was set aside for budget discussions, but due to remaining budget questions and some conflicting priorities, no action was taken. Additional budget sessions were set for February 8 at Commission headquarters and February 14, during the Four-State Inter-tribal assembly at Eau Claire.

The next meeting of the full Commission will be held in April although specific dates and a site has not yet been selected. The annual meeting of the Commission was set for mid-July in Marquette, Michigan.



BIA at commission meeting, Dr. Earl Barlow, Minneapolis area director spoke to the Commissioners at Keweenaw Bay Tribal Center.

BIA AREA DIRECTOR

Dr. Earl Barlow, Minneapolis area director offered some opening comments to the Commissioners. He outlined some of the cuts that are being proposed for fiscal year '86. Barlow commended the Commission concept, suggesting that it is in a good position to provide good management and other services to the tribes. This concept was first articulated in the Merriam Report, Barlow added.

However, he cautioned the Commissioners by reminding them that bureaucracies are not just limited to the federal government.

"You mustn't create something that is no longer responsive to the people," he said. Barlow added that "the process by which organizations grow is to realize that nothing is stable and that we should encourage and learn from feedback."

EXECUTIVE ADMINISTRATOR

Ray DePerry, executive administrator, submitted a comprehensive review of third quarter activity (September-November, 1984) as the bulk of his report. DePerry has been with the Commission since last August.

In addition to the written report, he commented on and called for continued unity in achieving Commission goals. He said they can be achieved despite impending budget cutbacks and the natural growing pains of the organization.

He underscored the importance of resolving any outstanding budget questions in order that negotiations proceed with the BIA. Mary Kaupilla, deputy administrator, reported on the current financial status.

Jim Schlender, LCO Commissioner and chairman of the Voigt Task Force had a number of concerns on the budget and on financial reporting. This debate resulted in the understanding that LCO would receive a complete set of all Commission financial transactions.



The north boundary of the Voigt decision argued. Milt Rosenberg, legal counsel sits with Red Cliff Tribal Chairman, Dick Gurnoe. Rosenberg (left) gave a presentation at a recent Great Lakes Indian Fish & Wildlife Commission meeting.

Achieving cross-deputization is a major concern of GLIFWC Chief Warden, Mike Cardinal. Cardinal says it's at the top of his priority list because it is imperative for effective enforcement capabilities.

Cross-deputization would give commission wardens the authority to enforce state laws. Currently, the state has the authority to enforce tribal agreements and state laws.

Primarily Cardinal says that wardens need the authority of cross-deputization in order to question people in the field and not be held liable. "They need more protection to do their job," he says. Considering that asking a white if he/she is an Indian is a racial slur, wardens are often presented with situations where their ability to investigate and enforce is deterred.

To date, Cardinal feels that the DNR has been delaying action on the cross-deputization issue and fears that delay will continue to be their ploy.

Cardinal says the DNR has objected to cross-deputization in the past on the basis that GLIFWC wardens are not certifiable. This argument is founded on regulatory language which does not include tribes in recognized "political subdivisions."

Cardinal says, however, that Head of the DNR Law Enforcement Division, George Meyers, has indicated cross-deputization is possible if certification is acquired within a year.

Meyers has indicated to the GLIFWC that the subject of cross-deputization will be continued to be explored once open-water fishing negotiations conclude.



Awaiting turn and listening. Mike Cardinal, Director of Law Enforcement with the Commission, awaits turn to give presentation. Sitting next to him (foreground) is Fred VanderVenter, biologist with Bad River.

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Fish & Wildlife Aide.....Henry Mieloszyk

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Keweenaw Bay Warden.....Richard Semasky
Lac du Flambeau Warden.....Jim Chapman
Lac Courte Oreilles Warden.....Ken Rusk
Mole Lake Warden.....Clayton Hascall
Red Cliff Warden.....Eugene DeFoe
St. Croix Warden.....Gordon Arbuckle

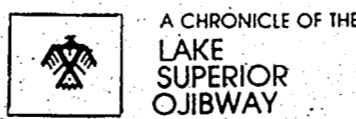
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MASINAIGAN



January, 1985 Supplemental Edition

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The name is an Ojibwa word for paper. Some of the elders referred to the treaties as glitchi-masinaigan, or big paper. As such, MASINAIGAN focuses on treaty rights issues of the Chippewa around the Great Lakes.
Subscriptions are free on request. If you have questions or comments, write the above address or call 715/682-6619.

Co-Editors/Writers.....Walt Bressette, Sue Erickson
Typist.....Lynn Spreutels

1984 OFF-RES TREATY DEER SEASON

A study of the 1984 off-reservation deer harvest has been completed by Jonathan Gilbert, wildlife biologist with GLIFWC. The report includes the results of the 1984 off-reservation treaty deer season, including a description of the permit system, the results of deer registration and the results of an optional questionnaire presented to successful hunters.

In brief, 1984 statistics show that 1,645 tribal members obtained deer tags, and 687 deer were registered at all six reservations, with the majority being at Lac du Flambeau.

The tribes did not exceed their portion of the quota in any deer management unit. The mean number of deer harvest per successful hunter was 1.9.

The report indicates that the number of antlerless deer taken by tribal members did not exceed the tribal quota in any unit; however, the state antlerless deer harvest exceeded the state's quota in 52 of 54 units. As a result, the combined effect was a total antlerless harvest in those units was close to their antlerless quota.

Gilbert indicates in his report that the discrepancy between the success rates in the tribal hunt and the state-licensed hunt may be related to the hunting period. He comments that state hunters, with a nine-day season, spend a large percentage of that time in the field. Whereas, tribal hunters, with a 71-day hunting period may have obtained antlerless permits valid for one week, but did not hunt during that week. This he notes, may have increased the number of permits issued while not changing

hunting effort and thus decrease success rates.

Looking at deer harvesting methods, survey results show that hunting on foot is most commonly used by over fifty percent of the survey respondents. Thirty percent hunting from a vehicle and 12.7 during a drive. The mean hunting party size, except for drives, was 3.4 hunters to a party.

Most hunters hunted for 2-3 days and for 3-6 hours per day for each deer they harvested. Hunters hunting from a vehicle spent fewer hours per day and fewer hours per deer harvest.

Ninety-five percent of hunters responding to the questionnaire used rifles, with 3.8 percent indicating use of a shotgun and .4 percent the use of bow and arrow.

A chart indicating the times of tribal deer harvest shows that the daily harvest during the state gun season was generally greater than at other times. Gilbert comments that this may result from more hunting effort and/or greater deer vulnerability during this time.

Although daily harvests during the state gun season were greater 36.4 percent of the total tribal harvest occurred during that period. Fifty-seven percent of the tribal harvest came during the early season and 6.2 percent in the late season.

Gilbert has been pleased with the response to the questionnaire sent out to successful tribal hunters. A little over 40 percent response rate made the survey, which contained questions on both hunting and fishing practices, a valuable tool.



WATERFOWL MANAGEMENT

The Mississippi Flyway Council Technical Section is recommending a 25% reduction in harvest of mallards and other major duck species in the flyway, according to Tim Andryk, GLIFWC waterfowl biologist who attended the technical section's meeting this winter.

Information at the session indicated that duck populations are in precarious state, says Andryk. Duck numbers are at the "lowest levels ever recorded" for a variety of reasons. Andryk cites severe drought in four of the last five years in prairie Canada, the major north American duck breeding areas, as one reason.

Another he says, is widespread drainage of wetlands and conversion to agriculture and other types of development. Effects from stabilizing duck hunting regulations during the past five years while habitat diminished, has caused over-harvesting of ducks, as well, pushing the populations to even lower levels, he says.

GLIFWC has been deepening its involvement with the Mississippi Flyway Council this winter. Tim Andryk, GLIFWC waterfowl biologist attended a meeting of the technical section in February.

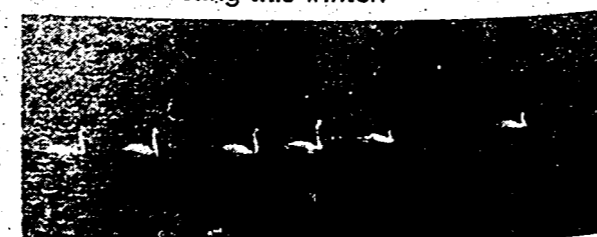
The meeting, which included biologists from all the states and provinces in the Mississippi Flyway, met to study results of last fall's waterfowl hunting seasons, review the biological status of various waterfowl populations, and make recommendations for changes.

Andryk made a presentation to the committee outlining the role of GLIFWC as well as introducing those present to Voigt litigations and up-coming, off-reservation treaty waterfowl hunts.

Andryk reports a favorable response from the committee, which made him a subscribing member of the Mississippi Flyway Council's Technical Section as a representative of GLIFWC. Andryk views this a "first step in eventually becoming a full-fledged voting member of the Mississippi Flyway Council, a status equivalent to the states on the Council."

Andryk also volunteered GLIFWC to sponsor the reintroduction of the endangered trumpeter swan in Wisconsin. He will be submitting a proposal for their reintroduction into Chequamegon Bay, using the mute swans in the Bay as "Foster Parents."

The Mississippi Flyway Council Technical Section is recommending a 25% reduction in harvest of mallards and other major duck species in the flyway, according to Tim Andryk, GLIFWC waterfowl biologist who attended the technical section's meeting this winter.



Down boys, down! This is not a military exercise in obstacle courses, but rather the Bad River WCC crew putting up wood duck houses, a project coordinated by Tim Andryk, GLIFWC wildlife biologist.

BAD RIVER DUCK NESTING BOX PROGRAM

In January 1985, the Bad River Wisconsin Conservation Corps (WCC) with the instruction and assistance of GLIFWC wildlife biologist Tim Andryk and technician Henry "Butch" Mieloszyk, initiated a wood duck nesting box program in the Kakagon Slough on the Bad River Reservation. The Kakagon Slough area is ideal habitat for raising wood ducks. The overhanging brush and emergent vegetation of this bottomland hardwood area, and the adjacent wild rice marsh, amply satisfy food and cover requirements of young ducklings and adult wood ducks. In fact, the wild rice marsh is a major pre-migration concentration (staging) area for waterfowl in northern Wisconsin. However, the slough lacks an abundance of dead, hollow trees and tree cavities required by wood ducks for nesting.

The Bad River WCC wood duck nesting box project is designated to increase wood duck nesting in the Kakagon Slough. The nesting boxes were constructed from highly durable cedar wood, and are about two feet high by 10 inches square. Three to four inches of wood chips were

placed in the bottom of the box from which the nest will be formed, and a strip of 1/4 inch mesh wire screening runs down the inside to act as a ladder so the ducklings can climb out of the box. The nesting boxes were erected in trees, close to water, near brood cover such as tag adders, cattails, bulrushes, and other dense vegetation.

This is the first year of the project and consequently only 10 nesting boxes were erected. When nesting boxes are first placed in an area, use by wood ducks is low, since it takes time for the local birds to become accustomed to them. However, once a wood duck successfully nests in a box, the young and adults, if they survive, will return to the same location the next spring and seek a similar structure to nest in. Consequently, once wood ducks start using them, their use of nesting boxes in an area increases rapidly.

The nesting boxes will have to be checked once a year (in winter) for wood duck use, to add new wood chips, and do necessary repairs. When 30 to 40% of the nesting boxes are being used by wood ducks, more nesting boxes will be erected to accommodate the returning ducks previously hatched in nesting boxes. Theoretically, that means more wood ducks in this area in the future.



BAD RIVER GEARS UP

Bad River is gearing up for a baby boom this spring and is in the process of preparing facilities. We are talking about baby walleye, of course, and the Bad River Hatchery staff are getting things ready.

In fact, four rearing ponds are near completion as the winter dovetails into spring. Water control gates still need to be installed, according to Bad River biologist, Fred VanderVenter, and that is scheduled to be done in early March.

The rearing ponds actually represent a revamping of ponds originally used for the cultivating of wild rice. The land, which was formerly owned by the Superior Diocese, is part of approximately 250 acres recently returned to tribal ownership by the Diocese, and prove a tremendous boon to the hatchery operation as a whole.

The addition of rearing ponds will enable the hatchery to move into the production of fingerlings rather than fry this season says VanderVenter. Being older and larger than fry, the fingerlings, he says, are both more marketable and have a better survival rate in restocking programs.

During the 1984 season, the hatchery produced 7 1/4 million walleye fry. For 1985 the figures may be down a little on walleye fry, but the hatchery will be expecting to spawn northern pike and yellow perch.

VanderVenter says two parties have already shown interest in purchasing from the hatchery this year—one buyer is looking at eyed eggs and the other at northern pike fry.

Restocking of both the Kakagon and Bad River with approximately 50,000 fingerlings per river system is another part of the hatchery program.

Working in conjunction with the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) biological staff, the Bad River hatchery will also be launching a full fledge walleye tagging operation this year. VanderVenter says they hope to tag 1,500 walleye for the purpose of studying migration and movement of the walleye and also to acquire data for a population estimate in Chequamegon Bay.

The walleye will be tagged with a metal jaw band marked "Bad River" and "reward." Tags can be returned to the fishery for one dollar. Larger prizes will be awarded through a drawing at the end of the project.

Another study to be instituted through the hatchery will relate to the yellow perch population in Chequamegon Bay. The study will be conducted jointly with Red Cliff and the GLIFWC. (S-



LAKES COMMITTEE TALKS NEW GOALS

Marketing, enforcement agreements and assessment projects were some of the lead agenda items at the last meeting of the Great Lakes Committee of the Great Lakes Indian Fish & Wildlife Commission.

The Lakes Committee met on January 29, preceding the full meeting of the Commission at Keweenaw Bay. In attendance was Keweenaw Bay, Bay Mills, Bad River, Red Cliff, Grand Portage and Commission staff.

Commission executive administrator, Ray DePerry, began by reviewing the evolution of the current Commission and the restructure that has resulted. (Fond du Lac is the sixth Lakes Committee tribe; these six were the members who comprised the original Great Lakes Indian Fisheries Commission.)

The Voigt Task Force is the other committee which comprise the overall Commission membership. These include Keweenaw Bay, Bad River, Red Cliff, Mole Lake, Lac du Flambeau, Lac Courte Oreilles, St. Croix, and Mille Lacs.

DePerry explained that due to extensive "Voigt" related activity some of the concerns of the Lakes Committee has been on the back burner. He hoped that a more balanced approach would begin emerging during the upcoming year.

Nonetheless, there has been considerable activity relating to the lakes tribes. A report on efforts to resolve potential intertribal conflicts between Wisconsin and Michigan fishing tribes is progressing. (See additional story "Michigan Assessment Fishing.")

Potential overharvesting of lake trout in Wisconsin waters remains an important concern. Tom Busiahn, GLIFWC head biologist, explained that an inter-agency committee is of biologists working up recommendations for lake trout catches in Wisconsin waters.

Additional issues raised by committee members included:

- Reports on the lamprey barrier in the Brule River;
- Concern over damage to the Fishery by Reserve Mining tailings dumping;
- Tribal participation in issues of the Great Lakes Fishery Commission;
- State and local reaction to tribal fishing, especially in Michigan;
- Development of a joint marketing effort with Chippewa-Ottawa Management Authority;
- Passage of Committee charters by all Lake Committee tribes;
- The Committee elected Joe Corbine, Bad River Chairman, to chair the Lakes Committee. William Houle, Fond du Lac Chairman, was elected committee vice-chairman. The next committee meeting was set for March in Bay Mills.

COURTS UNCLEAR ON SHOOTING OF EAGLES

ODANAH—In answer to several inquiries regarding the ability of tribal members to shoot eagles on-reservation, David Siegler, policy analyst for the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) says that for Wisconsin it remains unclear.

Although the United States Court of Appeals for the Eighth Circuit has recently ruled that tribal members have the right, as granted through treaties, to hunt eagles on-reservation, Siegler points out that the ruling is contradictory to that of the Ninth Circuit Court of Appeals (for the western states), and that the Seventh Circuit Court of Appeals, which affects Wisconsin, has made no ruling on the issue.

In other words, a tribal member in California would be convicted for shooting an eagle on-reservation according to current law, but it would be legal for a tribal member in Minnesota. A tribal member in Wisconsin under the jurisdiction of the Seventh Circuit does not know if he would be convicted or not, in absence of a ruling.

Siegler emphasizes that the rulings in both the Eighth and Ninth Circuit courts do not allow for the commercial sale of eagle parts, feathers or carcasses.

With contradictory decisions coming from the circuit courts, Siegler says it is likely that the Supreme Court may be asked for a ruling on the issue. As of Feb. 5, however, no such request had been filed.

For tribes within the Eighth Circuit, the taking of eagles may be regulated through tribal codes, as is the case on the Red Cliff Reservation. Even in absence of a circuit court ruling which ap-

a code which protects eagles as well as other endangered species.

Lac du Flambeau Tribal Chairman Mike Allen also indicated in a recent news interview that his tribe would not take advantage of the right to hunt eagles on-reservation.

Allen pointed out that the Chippewa consider the eagle to be a sacred bird and have taken measures to preserve them in the past, to the extent of disallowing camping in areas where eagles were nesting.

The Bad River Tribe also holds eagles in high regard. Their Kakagon Sloughs are the nesting grounds for about seven eagles which have been watched and studied through the Bad River Conservation Corps and by the waterfowl biologists of the GLIFWC.

Mike Cardinal, chief warden with GLIFWC, says there has been no incidence of shooting eagles around the Bad River Reservation and that it's not even a matter of conversation or something anyone wants to do. He says the tribe's people consider the eagles a good sign and hold them in respect.

The Endangered Species Act and the Eagle Protection Act, both which prohibit the shooting of eagles, were among several important considerations in the Eighth Circuit Court's ruling. In neither act, the Court concludes, can there be found any indication that Congress's intent was to abrogate treaty hunting rights. The findings state, "In reference to both acts, the fact that the acts are broadly worded conservation measures is inconclusive as to intent to abrogate Indian treaty rights."

Siegler says that the decision applies only to on-reservation hunting activities and should not, at this time, be interpreted as applying to off-reservation hunting.

MICHIGAN ASSESSMENT

As tribes assert treaty rights and become more involved in the arena of resource managers and users, additional problems arise which need to be overcome.

Some of these problems are ongoing legal battles, changing federal policies, biological concerns, media misrepresentation, concerns by other user groups, the growth of anti-Indian groups, and a relatively new problem of inter-tribal jurisdictional issues.

The question of inter-tribal jurisdiction is currently being addressed by some members of the Commission. A series of meetings and agreements have resulted in an assessment fishery last fall for Lake Superior waters in western Michigan.

At issue is enforcement authority and remaining questions of impacts to the fishery. Beginning last year, Red Cliff and Bad River fishermen moved into Michigan waters. One of the reasons cited for the expanded interest by fishermen is the Voigt decision.

The increased activity drew concern and response from the Keweenaw Bay Tribal Council who view Michigan waters as part of their scope of jurisdictional influence. With assistance from the Commission, efforts to clarify these concerns are proceeding.

In addition to the question of jurisdiction, the Keweenaw Bay Tribal Council has raised concerns over potential negative publicity if there appeared to be unregulated fishing activity. Commission biologists also sought ways to use the activity to assess the fishery and make recommendations for a more permanent management plan.

This process began last June at the annual meeting of the Great Lakes Indian Fish & Wildlife Commission. At this meeting, the three tribes and commission staff worked out a framework for

identifying issues and resolving any potential conflicts.

In August, the parties signed an agreement entitled a "Statement of Common Goals for the Treaty Fishery in the Western Michigan Waters of Lake Superior."

This initial agreement stated that while the governmental interest of the tribes will be recognized, any further treaty fishing in 1984 and the spring of 1985 would only be done under assessment conditions.

Following the agreement, bids were let and contracts were signed with assessment fishermen. All contract assessment fishing was to be completed by October 10, 1984.

However, because of additional fishing after the October date, another meeting resulted in yet another agreement between the three tribes. Final assessment fishing for 1984 was to be completed by November 28.

In the meantime, the Commission and tribal biologists were developing recommendations for the spring of 1985 and beyond. At a January Commission meeting, recommendations were presented to the Lakes Committee. Each of the tribes agreed to take the recommendations back for their respective tribal council for review and action.

RECOMMENDATIONS

On February 1, 1985, a report on the fall fishery assessment was submitted by GLIFWC biologists, Mark Ebener and Tom Buslahn; also authoring the report was Chuck Bronte, biologist with the Red Cliff Fisheries Department.

This biological team concluded that "while providing some initial information on abundance, distribution, and populations structure, [the data] is not sufficient to develop year-round manage-



Biologists report on Michigan Assessment Fisheries. Mark Ebener (left) with Tom Buslahn, head of biological services of the Commission, gave a report and recommendations on treaty fishing in Michigan waters at the recent Commission meeting at Keweenaw Bay.

ment recommendations relative to a commercial gillnet fishery in western Michigan waters of Lake Superior."

They proposed that fishing activities for 1985 continue as an assessment, continuing with the 1984 fall research effort. However, they did make some recommendations, a summary of which follows:

- That only four big boats be allowed to fish the assessment area at any one time in 1985;
- That certain grids be closed to all tribal, and possibly state recreational fishing activity;
- That grid 1315 to the Copper Harbor area be left open to the tribal assessment fisheries;
- No fishing along the eastern Keweenaw Peninsula down towards Marquette;
- That all big boat fishing activity be prohibited during spawning season (Oct. 1-Nov. 20) in the entire area;
- That systematic surveys be done over a wide area, to prevent a focus on the west entry and to provide better data for a year-round management plan.

According to the biologists, a new agreement should be developed for 1985 and it needs to be worked out by mid-March to prevent recurring problems and to protect the fishery.

Another set of recommendations is currently being developed which address ways to achieve a co-management system.

Major areas being considered included management functions and structure, judicial systems, enforcement mechanisms, and biological input.

The three tribes are expected to meet this month to continue the process of resolving and developing inter-tribal jurisdictional issues—one of the many problems facing tribes and members in the meaningful exercise of their treaty rights.



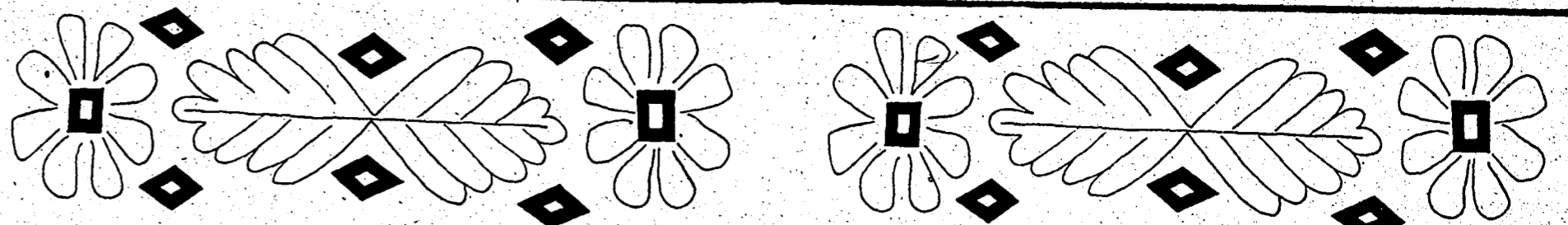
Newest Commissioner from Bay Mills, Erma Parrish, recently elected chairperson of the Bay Mills Chippewa in northeastern Michigan, attended her first Commission meeting at Keweenaw Bay in late January.

and then mesh their information with that of the U.S. Fish and Wildlife Service. The assessment will help determine whether yellow perch can be commercially harvested.

Other projects which the fisheries department will be involved in include a diet survey of lake trout, or essentially an examination of the predator prey relationship. Bronte says that over the years trout have switched from a diet of herring to smelt, a switch which may have negatively affected their growth rate. He feels inducement of the trout back onto a herring diet would improve the condition of the lake trout stock.

Bronte says the department will be contracting for herring in the fall as part of an effort to collect baseline data on herring. They are attempting to draw some conclusion on the relative run of herring in relation to lake trout.

Although one of the primary objectives of the fisheries department is to make recommendations to the tribal council regarding fishery management, Bronte also serves on a technical committee with Bad River and the U.S. Fish and Wildlife Service (which sit in as an independent party). The committee comes up with recommendations to both tribes and the State.



THE ST. CROIX BAND OF CHIPPEWA

A Brief History

by Gene Connor

In the middle of the 17th century, members of the Awase Clan living at the falls of Sault Ste. Marie left their occupation as fishermen and became traders. Like the Ottawa, they transported French trade items the length of Lake Superior to trade with the Sioux. For these clan members, their route to the Sioux was along the southern shore of Lake Superior and up the Brule River then down the St. Croix River into the heart of the Sioux Country.

With their families, they intermingled with the Sioux and enjoyed the hospitality afforded all traders. By 1702, they had established themselves at a village on Rice Lake on the Yellow River in Burnett County. There they intermarried with the Sioux and maintained peace with their Sioux kin while to the north and west their tribesmen battled the Sioux for possession of the fur and wild rice resources of northern Minnesota.

Although stray raiding parties of Sioux harassed the Rice Lake Chippewa, they were able to establish another village about 40 years later at Yellow Lake on the Yellow River, just northwest of the Rice Lake village. As their numbers increased, they established other villages along the St. Croix and its major tributaries. In time the Sioux withdrew from the upper St. Croix valley, leaving the occupation of the valley to the "Folle Avoine Saultuer" as the French called them. The English extinguished the French claim to the valley and continued to exploit the fur resources. The upper St. Croix valley then became the "St. Croix District" during the English fur trade era. The English built several trading posts in the valley. The sites of these trading posts were said to be unknown, lost, until the late 1970's when amateur archeologists found the sites of three trading posts which had operated in the valley during the years 1802 through 1804. One post was located on the Snake River in Minnesota. Two others were located side-by-side near Yellow Lake in Burnett County. The Snake River Post, near Pine City, has been restored and the Yellow Lake posts have been excavated and are in the process of being restored.

When the United States finally broke the English claim to the country, they entered into a period of treaty making with the Chippewa Nation and its branches. During this period, the Folle Avoine Saultuers, the St. Croix District Chippewas, became known as the St. Croix River Chippewas.

As a political branch of the Chippewa Nation, the St. Croix River Indians took part in the treaty negotiations of 1825, 1826, 1838, 1842, 1847 and 1854.

The Sioux and Chippewa agreed to boundary lines between them by the United States in the 1825 treaty. The treaty of 1825 was supposed to have done no more than explain to the western branches of Chippewa the treaty of 1825, at which many of them were absent, but managed to lay claim to the metals and minerals of Chippewa territory.

Undoubtedly, the most important treaty signed by the St. Croix River Indians was the treaty of 1837 in which they ceded the upper St. Croix valley, their homeland, to the United States. They did, however, retain the right to hunt, fish, and gather wild rice on the vast area ceded, including the upper St. Croix Valley.

Then in 1842, by political maneuver, the Chippewa Nation was divided in half. It was no longer referred to as one nation but as the Mississippi Chippewas, and the Lake Superior Chippewas. The natural and political boundary line between the two, Mississippi and Superior, became the St. Croix River. The division also divided the St. Croix River Indians. West of the St. Croix they became Mississippi Chippewa, and east of that river they became Lake Superior Chippewa.

With the treaty of 1842 the Lake Superior Chippewa ceded to the United States their last tract of land. The Chippewas had ceded all their land in what was six years later to become the State of Wisconsin. They still held their interest in lands to the west jointly with the Mississippi bands, and also retained their right to hunt on the ceded territory with the other usual privileges of occupancy.

Touted as the most important of all six treaties, the significance of the 1854 treaty to the St. Croix River Indians is minimal. For the St. Croix Indians it is significant only in a negative sense for two reasons. One, the treaty ended the political influence of the St. Croix Indians as a branch of the Superior Chippewas and denied them reservation status. For the Lake Superior Chippewa it set aside reservations their branches, excepting St. Croix and Mole Lake. But, it also ended their political importance. With this treaty, they would cede their interest in all land in which they held joint interest with the Mississippi Chippewa. Their importance as a division of the Chippewa Nation had ended. Their treaty days had ended.

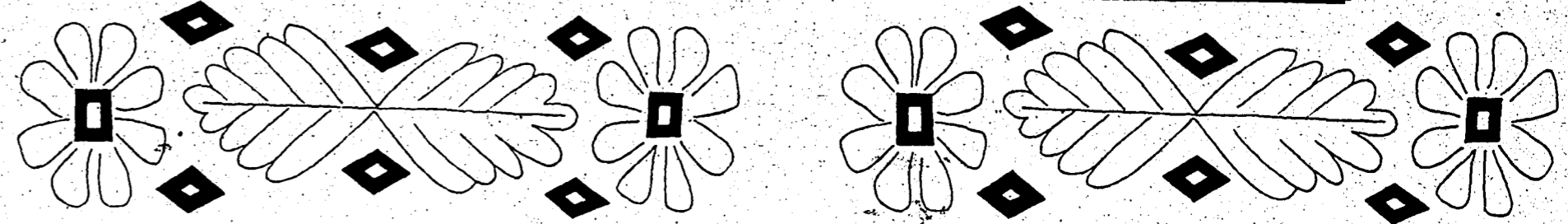
For the St. Croix Indians, the 29-year treaty era had come to a close; and they were faced with joining "other bands" and removing to the Lac Court Oreilles Reservation as an attachment in order to secure the benefits of the treaty. In 1948 their valley had become part of the State of Wisconsin. They had been cut off completely from their land and their right to a reservation of their own.

From 1854 to 1934 they became known as the "lost tribe" and became squatters in their homeland. They had refused to remove to and become part of the other bands which composed the Lac Court Oreilles Band.

In 1934 with the passage of the Indian Reorganization Act, the St. Croix River Indians were given federal recognition as "St. Croix Chippewa Indians of Wisconsin," a federally recognized tribe. The 1934 Act enabled the St. Croix Indians to gain reservation land which had been denied them for eighty years. Ironically, the reservation tracts were small, but were on or near the historic village sites they had been occupying for over 200 years.



Gene Connor, St. Croix Historical Preservation Office, has been an active participant in numerous projects relating to the preservation of Indian remains.



Assessment fishing on Lake Escanaba was part of a joint project with Flambeau fishermen. GLIFWC biologists and DNR staff participating. Above, fishermen test for the effectiveness of gillnetting for walleye.

RED CLIFF STUDIES LAKE TROUT

The study of lake trout in Lake Superior is a major involvement of the Red Cliff Fisheries Department staff. Housed in a small office at the base of the hill which slopes down to the Red Cliff Marina, Chuck Bronte, Red Cliff biologist, and his staff of three, frequently work on studies in conjunction with both state and federal agencies in the analysis of fish populations.

Bronte says primarily they collect data on commercial catches and look at age composition of the harvest, the frequency of distribution, catch and effort. They use the data to make management recommendations to the tribe.

Bronte says he views the tribal fishery as a compliment to other efforts, as those made by the state and federal agencies, to rebuild the lake trout population. This they do by evaluating the lake trout and measure the progress of rehabilitation efforts.

The tribe's fisheries has also been involved in assessment studies as those down at the Devil's Island refuge. They continue to observe and study the young fish in the refuge measuring relative abundance year after year. They also use their study of the young fish as an index for a long-

term data base on which to evaluate the success of the refuge.

The Red Cliff fisheries staff also assists in the lake trout spawning assessment, again complementing the work of the state and the Fish and Wildlife Service. Bronte says the tribe generally assumes responsibility for assessing the area between Bark Point and Raspberry Island.

Also, by agreement with the State, the tribe will contract with tribal fishermen to fish walleye in the late summer and early fall, up to a 5000 pound quota. Bronte says the purpose of the contract will provide a means to obtain biological data on the walleye as well as offer tribal fishermen an opportunity to fish a high-value species. In a joint analysis with the state department of Natural Resources, the tribe will be studying the potential for an expanded commercial fishery.

Another cooperative study with Bad River, and the Great Lakes Indian Fish & Wildlife Commission, the biologist will collect data on spawning yellow perch. Jointly the Bad River Fishery Department, biological staff from the Great Lakes Indian Fish & Wildlife Commission and the Red Cliff Fishery will collect data on the perch

ST. CROIX BAND OF CHIPPEWA

The St. Croix Reservation is composed of small tracts of lands representing communities made up of families who have frequently lived in the same vicinity for generations. The reservation communities are scattered with about 50 miles being the longest distance between any two of them. They occupy land in Barron, Burnett, Polk and Douglas Counties. Of the total population of 1,139, approximately 500 live in Burnett County and 250 in Douglas County. The total acreage of the separate tracts of lands equals a little more than 2,500 acres.

The St. Croix Chippewa Indians of Wisconsin is a federally recognized tribe governed by a five-member council elected for two-year terms. The Tribal Council is responsible for the general welfare of tribal members and the management of day-to-day tribal business. The Council is governed by the tribal constitution and by-laws, which were originally ratified in 1934 under the Indian Reorganization Act.

The Tribal Council maintains and manages a variety of programs for the benefit of the tribe. Among these are: Elderly Services Program, Combined Health Services, Tribal Conservation Program, Community Planning and Development, Foster Grandparent Program, Manpower Program, Daycare, Social Services Programs, Education Program, Core Management Program, Food Distribution Program, and the Tribal Court.

The tribe also operates several tribal enterprises as well as maintains the St. Croix-Hertel Fire Department, whose station is at Sand Lake. The fire department was certified in 1977. It holds a contract for service to the townships of Sand Lake and LaFollette, and operates with a fully trained, all volunteer crew under the supervision of fire chief, Laurence Reynolds.

Although the tribal administration building is located at the Sand Lake community, there are satellite centers in other reservation communities to facilitate the provision of services throughout the reservation, such as with the elderly nutrition program.



HEALTH & EDUCATION

Health and education remain to be areas of prime concern to the St. Croix Tribe and much effort is put into making strides towards improvement in these areas. A community health nurse with four community health representatives make it their job to inform and educate tribal members on health-related issues. They also make referrals for special needs, in essence, acting as a liaison between individuals and systems which can help them. The tribe can also boast a fully-equipped dental office with dentist Jay Balzar in the office three days a week.

In education, the tribe administers four programs through the direction of Morris Bearhart, education coordinator. The Johnson O'Malley Program looks after the needs of children three years old through high school graduation in terms of supplies, counseling and providing a home-school coordinator. Also available are the Adult Vocational Training Program, Higher Education Program and the Employment Assistance Program, which prepares people for jobs. Bearhart says that increased individual attention given to students has paid off as statistics reveal more of the tribe's youth are graduating and more are continuing on in school.

HOUSING

The St. Croix Housing Authority has largely been responsible for the improved housing on the reservation. In 1938 people were still living in wigwams. There was a time when tribal members were offered boxcars to replace their wigwams or tar paper shanties, but refused the offer. The first housing project homes were built of green timber which warped drastically. However, today St. Croix has 120 attractive housing units, many of them tucked neatly in the trees along lake frontage. Tribal Chairman, Gene Taylor, says that housing remains to be in short supply and that ten new units are being planned.



ECONOMIC DEVELOPMENT

In the area of economic development, the Tribal Council in conjunction with the Planning and Development Department and the Overall Economic Development (OEDP) Committee, sets priorities for proposed community and economic development projects. Tribal Planner, Richard Hartman, provides expertise in the planning and proposal process. The tribe is currently looking at several proposals for establishment of businesses and is concerned with regional, as well as tribal, development and growth.



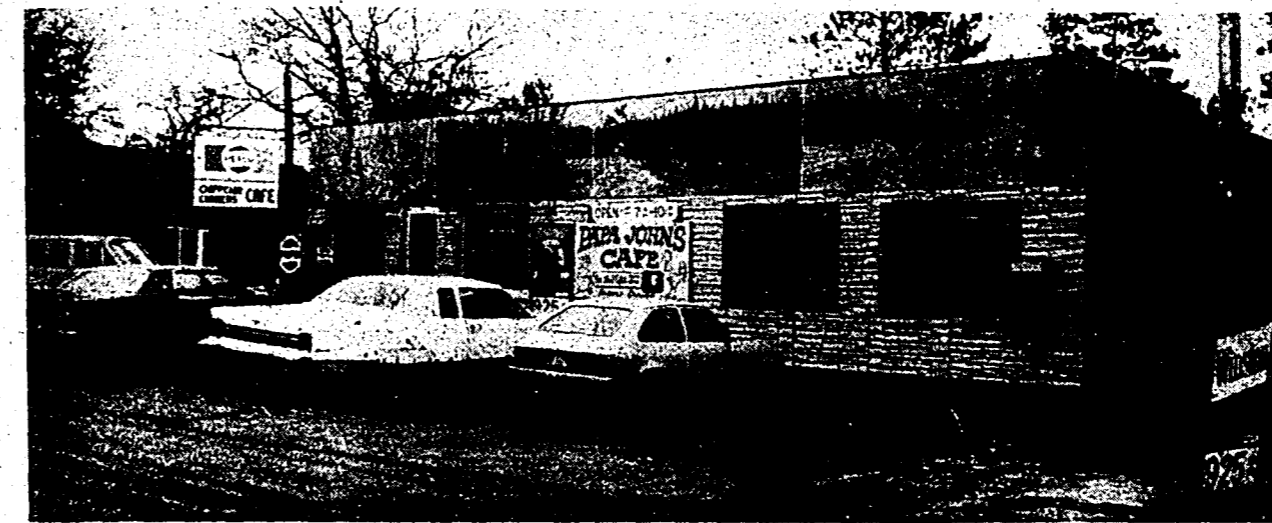
No reason to be nervous son...One of the more recent additions to the St. Croix Health Facilities, is a completely equipped dental office and the tribe's dentist, Dr. Jay Balzar (left) and assistant, Cindy Daniels. Balzar maintains an open office three days per week.

THE "LOST BAND" NEVER MOVED

Once known as the "lost bands," the St. Croix tribe of Chippewa is not now, nor was it ever "lost." In fact, the title is quite an inappropos description of a people who remain living on sites formerly occupied by the wigwams of their forefathers. Others may have perceived the St. Croix peoples as being lost in the paper scramble of treaties and land divisions during the 1800's, but the people themselves were always very much at home, and miraculously have managed to stay there.

In fact, Joe Holmes, St. Croix tribal member and long-time woodsman, remarks that the wedges left by his grandmother's axe on the sugar bush remain visible in the trunks of the maple which he still saps each spring.

Although deep ties to the land and the area remain, and much of the Ojibway tradition is still an integral part of St. Croix life, the tribe is equally concerned with the development and change necessary to encourage economic growth for the benefit of tribal members. According to Tribal Chairman, Gene Taylor, with continuing efforts the tribe has witnessed an economic upswing and can boast of considerable improvements over the last seven years.



Once a corner grocery store, Chippewa Corners Restaurant, Danbury, a tribally owned and run restaurant, has become a popular spot in the area. The

center provided a variety of services to the Superior Indian population.

Taylor views the proposed bingo-entertainment complex as a means to provide economic development for both the tribe and the Superior community. The tribe, he says, could supply the experience and resources required in managing a bingo operation, while also providing more jobs for the community, improving the downtown area, and drawing customer traffic for various related businesses.

Also a part of St. Croix's economic front is the tribally owned and operated Iyabanse Construction Company. Begun approximately ten years ago as a training station in general construction, including homes, roads, and sewer, the company quickly came into its own. Although some of the work is seasonal, the company employs between 7 to 14 persons and is going strong.

Another seasonal business operated by the tribe is the St. Croix Chippewa Canoe Company, employing four people in the manufacture of cedar strip canoes. The company has been in operation for several years.

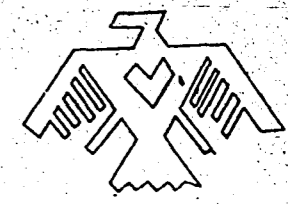


With economic development a key issue to the St. Croix Tribe, Tribal Chairman, Gene Taylor (center photo), and Gene Connor, council member, attended a conference on economic development in northern Wisconsin presented by the NW Regional Planning Commission at the Narrows Restaurant, Burnett County.

As an important base to tribal economy wild rice cannot be neglected although no wild rice business is operated through the tribe. Several tribal members run private businesses as do Ruth and Joe Holmes. They gather, process, and sell rice—in fact, one ton of the precious food was sold from the Holmes' home last season.

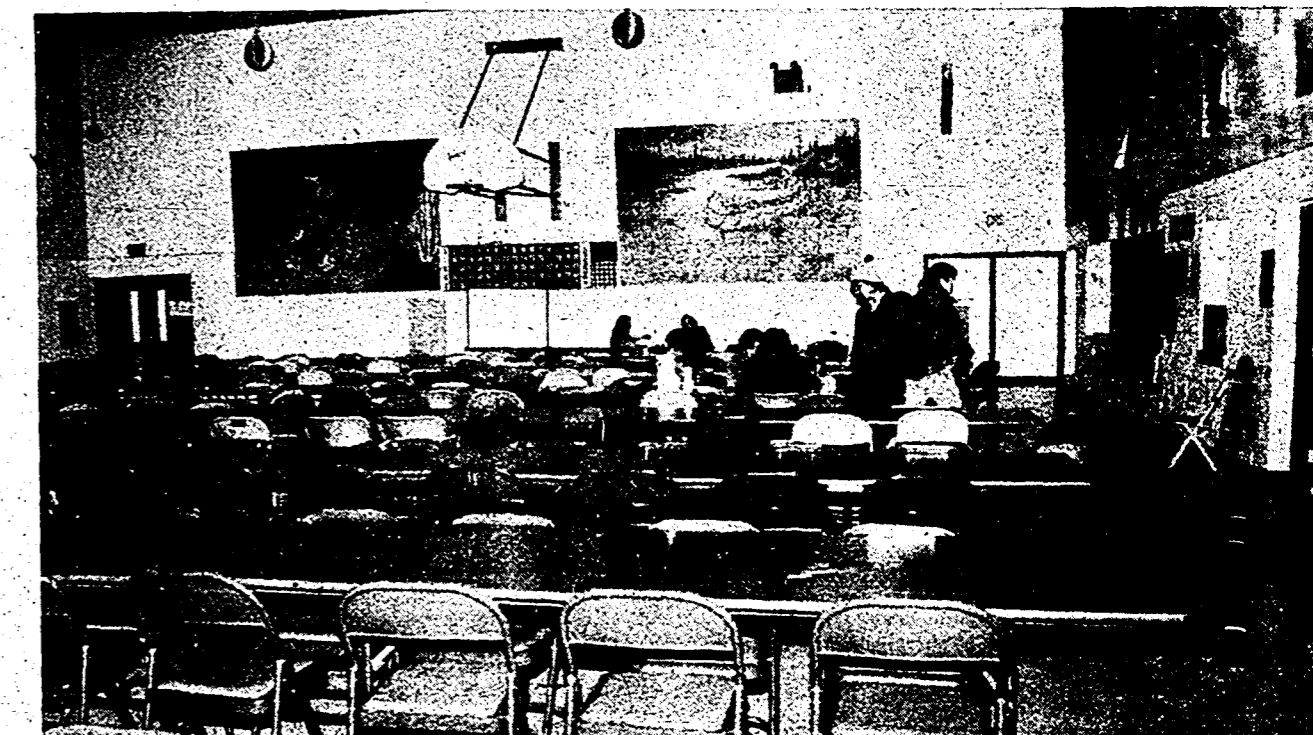
The problems confronting the tribe in the area of economic development are, of course, comparably being experienced in the entire region. Consequently, Taylor and other tribal leaders attempt to maintain involvement in various meetings and sessions regarding economic development. Most recently, Taylor, Connor, and the tribe's planner, Richard Hartman, attended a session on economic development in northern Wisconsin, presented by the Northwest Regional Planning Commission. Approximately 150 leaders from the northern area came to listen, learn, and discuss the various proposals and dilemmas confronting tribes and communities in their search to encourage economic growth.

Taylor feels that Governor Anthony Earl should be commended on the encouragement he has given to such meetings which help provide an impetus to community leaders to seek for new and cooperative plans for development. Taylor is looking forward to more such sessions as he continues to explore new avenues for the increased prosperity and self-determination of the St. Croix Tribe.



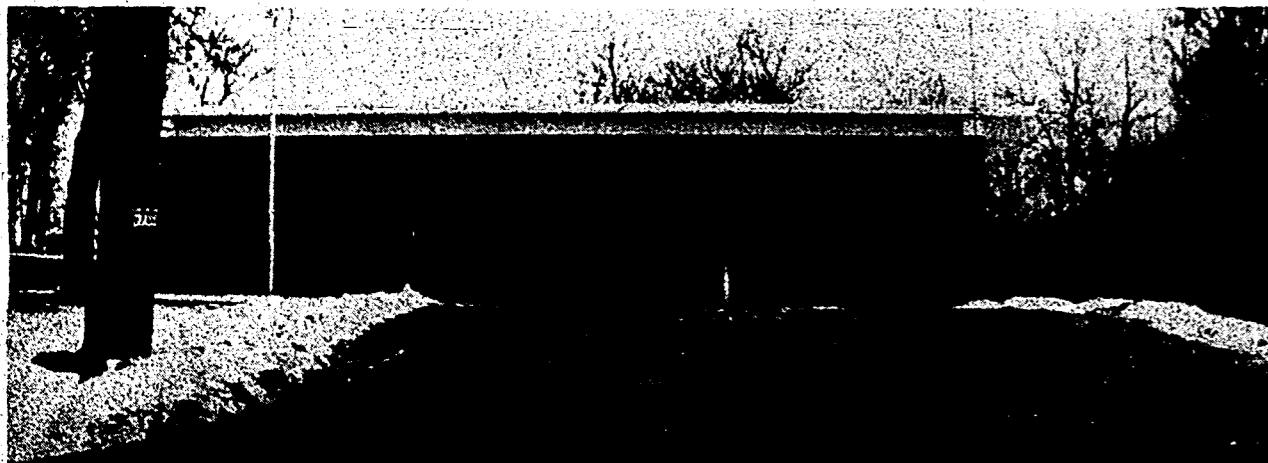
A more recently acquired business is the Chippewa Corner Restaurant, Danbury, unprepossessing in its appearance, a small neighborhood grocery store was converted into a hometown-type restaurant, owned and operated by the tribe. Described by Gene Connor as a "blue chip" enterprise, the small but comfortable restaurant is becoming a gathering place for community members, a place to hold casual meetings, and also assists in part of the elderly feeding program.

According to Connor, the tribe has not yet consciously aimed its attention at tourist business. However, they do maintain a campground at Big Round Lake, complete with electric hook-ups and water and also annually sponsor the Wild Rice Festival in September. Taylor indicated that a lodge on the reservation has been a tourist-oriented idea that the tribe has been considering.



Averaging between 150 to 200 people per night, the Sand Lake bingo, held at the tribal administration building, fills the large hall above during the evening.

Bingo is run by the tribe at several centers on the reservation and profits are used to assist such programs as the tribe's day care, the fire hall and the pow-wow committee.



Fire trucks are ready and waiting at St. Croix's Sand Lake Fire Department. A fully certified fire department

run by trained volunteer firemen, the facility serves the townships of LaFollette and Sand Lake.

THE SPIRIT OF THE CHIPPEWA

"Nobody plays the moccasin game anymore," says Archie Mosay, born in 1904 in a wigwam at Balsam Lake, one of the smaller communities of the St. Croix Reservation. Mosay has witnessed the life of his people through a period of tremendous transition—from wigwams to tar paper shacks to modern housing. He has seen the tribe regain their reservation status, organize through a process of self-determination into effective self-government and develop skills necessary for survival in a modern world.

Archie, an employee for Polk County for 34 years, retained within himself a deep sense of Ojibway culture, religion and language throughout the years of change. Still living in the community in which he was born, Mosay speaks Ojibway fluently, never forgetting the language of his parents and grandparents.

Mosay is spiritual leader of his people—a spiritual leader in many ways. Mosay, who was taught the traditional rituals of the Ojibway by his father (who lived to be 102 years old) presides at burials, rites during pow wows and the Midawewin ceremony of purification, a ceremony which Mosay says has largely been lost among the Ojibway people.

The Midawewin ceremony uses the medicine lodge (sweat lodge) to combat illness. Mosay builds a lodge usually twice a year, in the spring and fall, to be used by people seeking remedy through the process of the Midawewin ceremony. A lodge cannot be re-used, he says. A new one must be reconstructed for each ceremony.

Besides, or perhaps beyond, the matters of ritual, Mosay is a spiritual leader in action

through humble caring. Since retiring from the county crew over twenty years ago, Mosay has been traveling across the county speaking with Indian people who wish to "know of the old ways." At pow wows; at youth camps, in schools, Mosay tells of how things were, speaks of the Ojibway tradition, tells stories, and demonstrates games.

Mosay, who is a foster grandparent, has a deep concern for Chippewa youth. One of his greatest concerns has been the devastation of drugs and alcohol on the minds and lives of his people. He spends much of his time working at ANDYME (Ojibway for My Home), a halfway house for Indian people recovering from alcohol or drug abuse. He says, "We pull kids out of the ditches when they come there. They talk to me about alcohol. I tell them Indian people are not supposed to take alcohol." Mosay, in his quiet and simple manner, is able to provide a sense of strength and pride and identity that is part of being Ojibway even in a modern world.

Archie Mosay, spiritual leader, has seen many things come and go over his 81 years, yet he has stayed in his native place as has the St. Croix Band, standing firm against removal, remaining where he belonged. Many of the traditional rice beds have been destroyed through pollution. He says, the deer population has been greatly reduced, the wigwams are gone...and nobody has time to play the moccasin game anymore. But Archie Mosay is still there, with a wonderful sense of time, present and past... and he's passing it on each living day to the young, each time he raises his pipe to the east, the west, the south and the north.



A tradition of athletic achievement has been a source of pride to the St. Croix Tribe. Standing in front of the impressive display of trophies are from the left, Archie Mosay; Ruth Holmes, councilwoman.



INDIAN REMAINS PRESERVED

HISTORIC PRESERVATION: KEY CONCERN OF ST. CROIX

Gene Connor, Chairman of the St. Croix Historic Preservation Office and vice president of the Burnett County Historical Society, has been in the forefront of efforts in Wisconsin to preserve Indian burial grounds, artifacts and other historic or pre-historic sites.

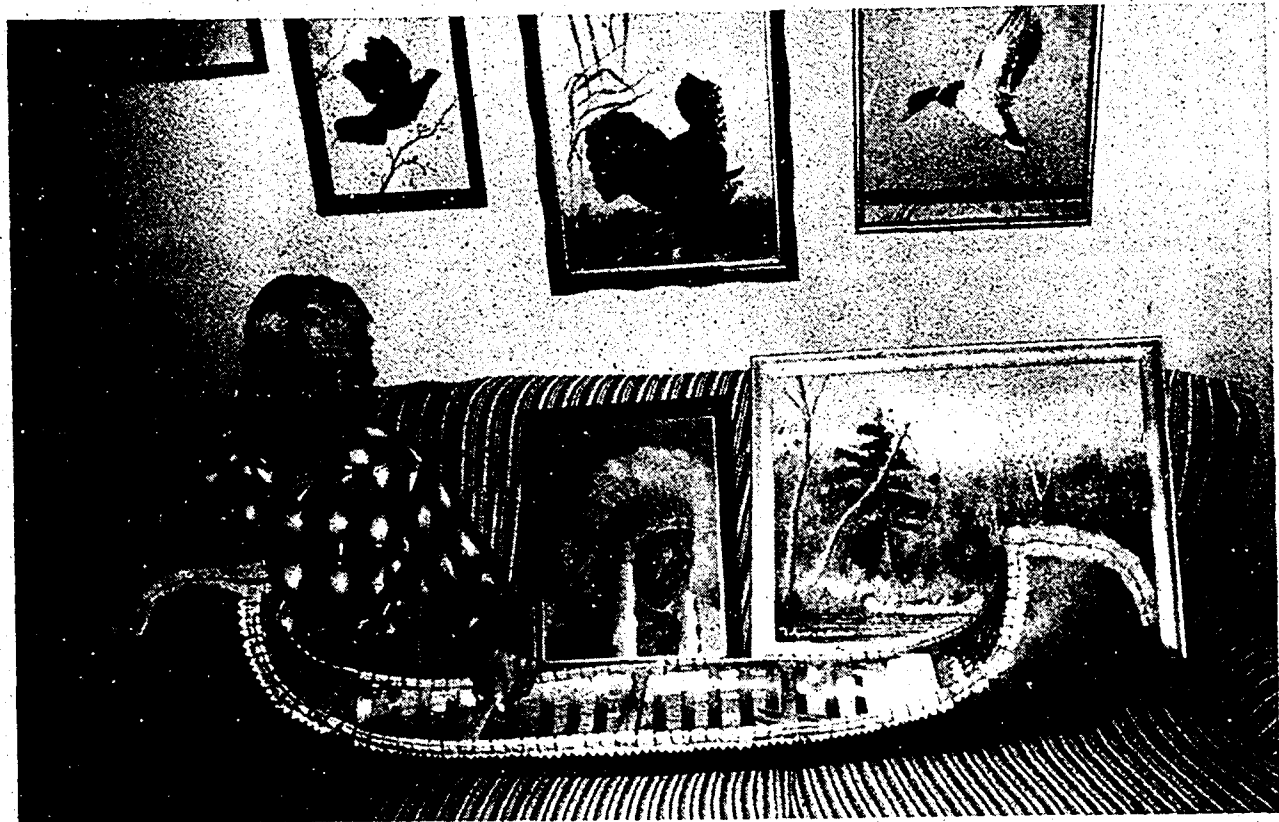
Most recently, Connor alerted the Great Lakes Indian Fish & Wildlife Commission (GLIFWC) and northern tribes in regard to potential destruction of Indian remains if the State's proposal for oil drilling regulations were passed without adequate safeguard.

Connor was concerned that provision be made to protect unidentified archeological sites which may be discovered or disturbed in the process of oil drilling.

Connor says that resolutions made by both the Burnett County Historical Society and the St. Croix Tribal Council objected to "totally inadequate" regulations being proposed as well as to the "noncompliance with Wisconsin's environmental Protection Act." The resolutions have been sent to the Capitol.

The tribe has also worked actively with the Historical Society in the preservation of burial sites recently scheduled for real estate development. Connor says that 48 acres of land containing 52 burial mounds which lay adjacent to an original Chippewa Village established in circa 1690 were saved as a result of joint efforts.

Connor is also vice-chairman of the Indian Human Remains Committee of the Great Lakes Inter-tribal Council. The Committee, with Vicky Ackley as Chairperson, has been working on the wording of a bill which will end the desecration of burial sites.



A man of many talents, but barber by trade, Lafayette Connor displays a few of his impressive artistic endeavors. Included are two oil paintings on the sofa, bird pictures made from feathers and an award-winning replica of an authentic birch bark canoe. Many of Connor's oils depict historic scenes of Chippewa villages in

the St. Croix area. Connor is currently involved in composing an extensive family history, so time at the typewriter has replaced some of the time spent with the paint brush. Irregardless of media, Connor is a man of patience, willing to painstakingly translate something of the Ojibway culture for posterity.

in other countries in the near future.

Other projects of concern to the tribe have been the return of bones and artifacts which have been removed from area sites. Connor says some remains have been retrieved from museums and returned to the earth.

Connor says that the concern of the tribe's historic preservation efforts relates to all Indian remains and artifacts—not just those of the St. Croix tribe, and extends itself to the principals of historic preservation in general for the State of Wisconsin.

Connor says the tribe has also been involved in the research and digs surrounding two fur-trading posts in Burnett County. Under the supervision of archeologist, Ed Oerichbauer, director of the Burnett County Historical Society, two trading posts which were abandoned after 1804 and burned, have been completely explored and are in the process of reconstruction.

To date, the tribe has been involved primarily in preservation work in Burnett County with 100% cooperation from the County, according to Connor. But he hopes to be working on projects

The pipe used during ceremonies by Archie Mosay, St. Croix spiritual leader, was carved for him by Joe Holmes—a man of the woods and lakes, an artist, a hunter, a gatherer—who lives the traditions of the Chippewa.

The pipe represents just one of the various carvings done by Holmes, who retired from truck driving fifteen years ago. Hand-carved totems stand outside his home; and in the Danbury cemetery, one of Holmes' totems marks a grave and rises colorful and distinctly Chippewa amongst the field of tombstones. Currently, he is in the process of carving another pipe from stone he received from the quarry in Pipestone, Minnesota. On one of the beams in his home hang two long wooden chains, each carved from a single piece of wood—testimony of both his skills and patience as a carver.

Versatile as an artist, Holmes' paintings also decorate his home—painting being another of Joe's pastimes. However, most of his pictures have been given away. His involvement in carving or painting seemed to come from something innate, requiring no special training. "I just started carving," says Joe.

Holmes' activities as a hunter and wild ricer are something more than an avocation. Residents of St. Croix know that on a nice day in any season, summer or winter, it would be hard to catch Joe at home, because he would be in the woods hunting or trapping; or on the lakes fishing or ricing; or in the early spring out among the sugar bush gathering sweet maple sap. The trees he saps still bear the marks of his grandmother's axe where she drove wedges for sapping years ago.

Joe just gathers enough sap to supply the family with tasty pancake syrup in the morning—about five gallons, he says. But wild rice is another matter. Holmes and his wife, Ruth, process wild rice in a small plant in the back of their home. The processed wild rice is sold from their front yard. Last season they sold one ton of processed rice.

This makes the fall season very busy for the couple. Running the processing plant makes it difficult to harvest the rice, so fresh rice must be purchased from family or tribal members. Holmes emphasizes that rice must be dried and processed quickly, or it will become moldy, so the harvest time becomes an all out effort to handle the rice as efficiently as possible.



Joe Holmes, holds two items he has carved. In the left hand is the bowl of a pipestone; in the right, a wooden chain carved from one piece of wood—carving is one of Joe's hobbies. He also paints, is an avid hunter and trapper, and processor of wild rice. The winnowing basket holds wild rice which he and his wife, Ruth, have processed in their family-run processing plant.

HOLMES: LIVING THE TRADITIONS

LAMPREY BARRIER CALLED "WORTHLESS"

On the request of Commissioner Richard Gurnoe, GLIFWC fisheries biologists, Mark Ebener and Bob Williamson, studied the effectiveness of the Brule River sea lamprey barrier and concluded that the fish ladder, which allows passage of lake trout up the stream, is "worthless" in its present structure and location. Ebener and Williamson spent a day observing the attempts of fish to use the fish ladder and found that only 20% of the fish were successful in getting over the barrier.

Their conclusions are as follows: Although the barrier with the new modifications does allow passage of some fish, its overall effect on movements of fish is negative. Nevertheless, because the barrier prevents passage of many migrating fish, it will effectively serve its purpose; that of preventing upstream migrations of adult sea lamprey.

From our observations, we conclude that the fish ladder in its present structure and location is worthless. The jumping pools were installed to facilitate upstream movement of trout, but the fish do not appear to be using the ladder at all. The problems with the fish ladder are:

- 1. The jumping pools are too small in width and depth thereby reducing the available water from which the fish can jump;

- 2. The 8-inch metal lip on the main barrier dam appears to project the falling water out onto the front of the shallow part of the middle jumping pool, again resulting in too shallow of water for the fish to jump from (Figure 3).

We suggest that the size of the jumping pools be increased, particularly in depth, and that the jumping pools be placed in the farthest point upstream on the barrier and not in the farthest point downstream.



Policy analyst, key part of Commission activity. Dave Siegler responds to questions by Commissioners at recent Michigan meeting.



HUNTING SURVEY



Wildlife biologists, Jonathan Gilbert (left) and Tim Andryk

A survey seeking information on Chippewa deer hunting and fishing practices as well as needs, has been initiated by Jonathon Gilbert, wildlife biologist with the Great Lakes Indian Fish and Wildlife Commission (GLIFWC).

Gilbert has sent a three-page survey to the 1800 Chippewa hunters throughout the ceded territory who signed up for a 1984 off-reservation deer hunting license.

Gilbert says the first page of the survey is designed to get information on standard Chippewa hunting methods, i.e., times they hunt, where they hunt, and methods used.

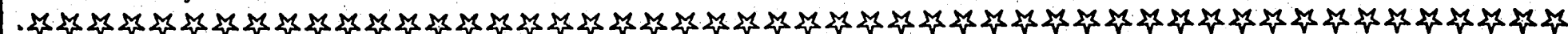
The second page of the survey seeks supplemental information to that given at registration. Gilbert would like to know how many Chippewas actually hunted off-reservation versus the number who acquired licenses. He would also like to determine how many hunters were successful and how long it took them to get a deer.

The information, Gilbert says, will provide important data to use during negotiations for coming agreements, as well as help evaluate the success of previous agreements in providing for the needs of the Chippewa hunter.

The third page of the questionnaire relates entirely to fishing practices again asking for preferences as to time, place and method for harvesting, as well as for species preferred.

For both the harvesting of fish and deer, the GLIFWC is attempting to establish the amount of game considered necessary for the Chippewa hunter or fishermen in terms of subsistence, and whether he has been able to get that amount under the previous agreements.

Respondents to the survey will remain unidentified. Gilbert feels this will encourage frank answers to the questions asked. Gilbert emphasizes the importance of acquiring the information sought in the survey as an opportunity for tribal members to give their input into the process of establishing agreements which should be meaningful to them.



THE EVOLUTION OF TRIBAL COURTS

CREDIT:

Excerpt from *Indian Self-Determination and the Role of Tribal Courts—A Survey of Tribal Courts*. Conducted by The American Indian Lawyer Training Program

Despite the reaffirmation of tribal sovereignty signalled by the 1934 Indian Reorganization Act, soon thereafter the pendulum began to swing back toward integration and assimilation of Indians into the American mainstream. Congressional attempt to terminate Indian tribes occurred with increasing frequency. In addition, the theory that tribes should be placed under state jurisdiction to aid in the assimilation began to receive increasing institutional support.

In 1953, Congress passed Public Law 280⁵⁹ which attempted a comprehensive resolution of the question of state jurisdiction over Indians. That Act mandated the transfer of civil and criminal jurisdiction over reservation Indians to the state in five states. Other states were given the option of assuming such jurisdiction. Although Public Law 280 did not represent a wholesale abandonment of the tribes to the states,⁶⁰ it was clearly an instrument of federal policy of termination and assimilation.

Not all tribes were affected by passage of Public Law 280, but even those which ostensibly remained untouched were threatened by what the legislation portended. Thus, it is not surprising that most tribes, sensing the potential for imminent extinction, expended their energies in attempting to defeat federal policy rather than in planning for the eventual development of their governments or court systems.

Recognizing the degree to which public Law 280 was incompatible with Indian self-

determination, tribes and Indian organizations objected vociferously to its application. Criticism was also levied by the states, which were expected to assume varying degrees of jurisdiction over reservation Indians without federal financial help. As a result of these objections, the Act was later amended in 1968 to add a tribal consent requirement and to authorize states to retrocede jurisdiction to the federal government.⁶¹

Just as tribes had more pressing concerns than tribal court development, so did federal officials who no doubt thought it inconsistent to foster the development of tribal courts as independent institutions when eventual tribal termination was, if not a certainty, at least the express policy of the federal government. Thus, the 1950's were a time of little or no code reform, failure to train tribal court personnel, and substantial lack of concern for development of court systems and facilities. Only recently has training become available, and have significant federal funds been allocated for court improvement and code reform.⁶²

Congressional interest in tribal courts was revived in 1961 when Senator Sam Ervin convened a Senate subcommittee to consider the constitutional rights of the American Indian. In his opening remarks to the subcommittee, Senator Ervin expressed the concern that Indian citizens were being treated arbitrarily by their courts and tribal governing bodies. The product of his subcommittee's deliberation was the passage, seven years later, of the Indian Civil Rights Act⁶³ which, with few exceptions, subjected Indian tribes to the same limitations as those which are imposed on the federal government by the United States Constitution.

ENVIRONMENTAL LAW

The role of tribes in relation to environmental protection concerns is one being explored by David Siegler, Policy Analyst for the GLIFWC. Siegler, who attended a conference on environmental law in Washington, D.C. in February, says that he feels there is an interfacing between environmental and Indian law in relation to treaty hunting and fishing rights and the power to protect the resource.

Siegler says that in months ahead he will be exploring tribal environmental protection activities nationally and hopes to make a presentation on the subject at the National Native American Fish and Wildlife Conference to be held in Duluth this May. He will also be soliciting information on tribal activities across the country relating to environmental protection.

He would like to compile a review on tribal environmental protection activities including methods that have been used. Potentially tribes could use federal environmental laws for litigation, use authority delegated from the Environmental Protection Agency (EPA), or use tribal environmental ordinances.

Siegler says that the tribes are in a unique position to raise issues, such as the pollution of Lake Superior because of treaty rights. He also comments that there are some areas in the Great Lakes region which may need more rigorous examination than either the states or the federal agencies have been doing.

Tribal courts have come under considerable attack recently from George Meyers, DNR negotiator and Head of the Law Enforcement Division. Meyers has gone so far as to suggest reworking tribal courts, which indicates a need for the public to better understand something of tribal jurisdiction and the evolution of tribal courts. The article on this page are intended to give that kind of background information.

Also in 1968, then-President Lyndon Baines Johnson proposed,

...[a] policy of maximum choice for the American Indian; a policy expressed in programs of self-help, self-development and self-determination.⁶⁴

The 1968 Indian Civil Rights Act which the President signed later that year might have allowed for the self-determination of which he spoke, had it, like the I.R.A., allowed Indian communities to vote to have the Act apply when they felt ready to accept its standards. Because it was imposed on the tribes without their consent, however, it represented an intrusion into the internal tribal settlement of disputes. Further, although the legislative history is voluminous and subject to varying interpretations, the language of the Act closely traces that found in the Bill of Rights and the Fourteenth Amendment, producing a fear on the part of Indian groups that the legislation will eventually be interpreted to impose non-Indian legal standards and governmental policy upon tribal governments.⁶⁵ As discussed later in this report, application of the 1968 Indian Civil Rights Act has placed substantial burdens on tribal courts and has significantly increased the magnitude of tribal court needs. Thus, although interest in tribal courts was revived in the 1960's, the outcome of this concern was primarily the application of stringent standards rather than development of a comprehensive program for tribal court improvement.

TRIBAL COURTS

Tribal Governing Body	Tribal Chairperson	Tribal Judge(s)	Tribal Court Clerk
Bad River Tribal Council P.O. Box 39 Odanah, Wisconsin 54861 PHONE: 715/682-4212	Mr. Joseph Corbine	Judge Ervin Soullier	Pat Zakovec
Lac Courte Oreilles Governing Board Route 2, Box 2700 Hayward, Wisconsin 54843 PHONE: 715/634-9334	Mr. Rick St. Germaine	Judge Ed Barber	Lorene (Book) Hall
Lac du Flambeau Tribal Council P.O. Box 67 Lac Du Flambeau, Wisconsin 54538 PHONE: 715/588-3306	Mr. Mike Allen	Judge Tom Maulson, Sr. Judge Phyllis White	Geri Kay Allen
Red Cliff Tribal Council P.O. Box 329 Bayfield, Wisconsin 54814 PHONE: 715/779-5805	Mr. Richard Gumoe	Judge John Daley Judge William Gordon	Marian Pine
Keewenaw Bay	Mytie Tolonen	Ted Kolappa Barbara Mantila Asst. Judge	Elaine Jondreau
Bay Mills	Erma Parrish	Carol Andray Conservation Judge	Daria Schofield
Fond du Lac	William Houle	Mr. Pat O'Brien	Judy Thordorsen
Grand Portage	Jim Hendrickson	Reservation Business Committee Jim Hendrickson Chairman	
Bureau of Indian Affairs Robert St. Arnold, Supervisor Great Lakes Agency P.O. Building Ashland, WI 54806 PHONE: 715/682-4527	Mr. Paul De Main Policy Advisor for Indian Affairs Governor's Office State Capitol Madison, WI 53702 PHONE: 608/266-1212	Mr. John D. Niemeato Justice Dept. 123 W. Washington Ave. Madison, WI 53702 PHONE: 608/266-0278	

TRIBAL COURTS continued from page 11

The theme of Indian self-determination was further expounded by President Nixon. Consistent with that policy Congress enacted the Indian Financing Act in 1974. The next year the Indian Self-Determination and Education Assistance Act, designed to involve tribes in the administration of federal services, became law. Indian self-determination and the strengthening of tribal self-government remains the current federal Indian policy.

Despite these federal goals, Indian tribes remain subject to inconsistent federal requirements. On the one hand, they are encouraged to accept in good faith a course of government action with Indian self-determination as its foundation. On the other hand, the 1968 Indian Civil Rights Act implies to many Indians that self-determination is acceptable only to the extent that tribes develop sophisticated, anglicized tribal court systems. In addition, the view that tribal jurisdiction is limited has not disappeared from federal policy.

Several attempts have been made to support tribal courts in improvement efforts. For example, in 1969, following passage of the Indian Civil Rights Act, both LEAA and the BIA increased their support of tribal courts. The Indian Financing Act of 1974 and the 1975 Indian Self-Determination Act also permitted some funding for tribal courts. However, it is the perception of a large majority of tribal court judges that such efforts, although well-meaning, have been woefully inadequate. Many judges are attempting to improve their court systems with minimal available resources. However, to expect immediate development, in the fact of increasingly exacting federal standards, without massive support from the federal government pursuant to its trust obligations is to make a mockery of the hope for truly viable judicial bodies.

Indian judicial systems are commonly classified today into three categories based upon their mode of organization and methods of operation. These categories are designated as tribal courts, traditional (or custom) courts, and courts of Indian offenses (also labelled as CFR courts). Although the distinguishing features of tribal and traditional courts are clearly delimited, several questions noted below arise in any attempt to define precisely the characteristics of courts of Indian offenses. This section first examines the generic distinctions among these three types of court systems. Thereafter, it summarizes the survey data collected on the legal structure of courts included in our sample.

The largest number of tribal systems are those known as "tribal courts." They are established pursuant to the inherent power of tribes to devise mechanisms for the administration of justice. Authority to implement this

sovereign prerogative is usually set forth in tribal constitutions adopted either under the 1934 Indian Reorganization Act (IRA) or independently of that Act. However, the power to create judicial systems does not require the existence of any written organic document, and some tribes that function without constitutions have organized "tribal courts." However, a central characteristic common to all tribal courts is the use of written legal codes.

Most tribal constitutions provide generally that the tribal council or other governing body shall be empowered to establish a court system and adopt judicial codes. In a few instances, these organic documents specify the procedures for creation of courts, the jurisdiction they may exercise, and the methods for selection and removal of judges. The organization and jurisdiction of most tribal courts, however, are detailed in the judicial codes or ordinances adopted by the various tribal governing bodies.

Whether established by constitution, code or ordinance, tribal courts are subordinate in authority to the tribal councils. Thus, as a general rule these courts are not empowered to review the validity of council actions or enactments although they may be called upon to render advisory opinions. The judges of these courts may either be elected by the tribal membership or appointed by the tribal council. When operative appellate systems exist, power to review tribal court decisions may be vested either in the tribal council or in an appellate court composed of tribal judges.

The second category of tribal systems, known as "traditional courts," is composed of those Pueblo tribes in New Mexico that still maintain customary judicial procedures. These Pueblo courts, like tribal courts, derive their authority from the inherent tribal power to administer justice. However, this authority is not implemented by any written constitutions or legal codes. Rather, it is exercised entirely in accordance with longstanding oral customs.

Although characterized as "courts," the institutions developed by these traditional Pueblos bear little resemblance to the Anglo models adopted in part by the tribal courts and courts of Indian offenses. Judicial functions are entrusted primarily to the Governor, or chief executive officer of the Pueblo, and his staff. The Pueblo Council, composed of ex-Governors, usually acts in conjunction with tribal religious leaders to appoint a new Governor annually. The Council in some instances acts as the initial hearing forum, and it is available but rarely utilized as an appellate body to review judicial rulings made by the Governor.

The third group of tribal judicial systems is comprised of those courts which are established pursuant to provisions of the Code of Federal

Regulations. The regulations set out the structure of these so-called courts of Indian offenses at some length; however, questionnaire responses indicate that the regulations contain ambiguities which have made it difficult for courts in transition to know at what point they cease to be defined as CFR courts.

As mentioned previously, Section 11.1(d) indicates that the federal regulations apply until a tribe has adopted a law and order code in accordance with its own constitution. Certain sections of the regulations apply even after tribal adoption of a code, for as long as the Indian judges are paid from federal funds, "or until otherwise directed." Thus, it is not clear whether courts which have adopted codes but are still served by judges paid by the BIA are considered CFR courts.

Whether a court is defined as a CFR court or not, the regulations seem to indicate that for as long as a tribal judge's salary is being provided by federal agencies, the federal government and the tribal council will determine which persons shall serve as judges. Section 11.3 of the regulations requires that when judges are funded with federal appropriations, the Commissioner of Indian Affairs shall appoint the judge, subject to concurrence by two-thirds of the tribal council. Interestingly, however, while judges at 33 reservations are being paid in whole or in part by the BIA, only fifteen courts reported federal involvement in the selection of judges, and only 19 described themselves as operating under the Code of Federal Regulations. Moreover, the courts which reported federal involvement and those which reported operation under CFR were substantially, although not totally, different. Thus, clarification of the requirements will be important in eliminating current confusion.

Many courts which do not operate pursuant to the Code of Federal Regulations nevertheless function under rules similar to those set out in the Code. For example, the appellate structures provided for the Code are seen in many non-CFR courts. Similarly, many non-CFR tribes have provisions relating to judges' selection and removal which resemble those promulgated in the Code. For example, council's role in selection of judges is not limited to courts of Indian offenses. Such similarities should not be surprising, however. Federal regulations have not been changed significantly since 1935, and as was explained above those post-1934 federal provisions were often incorporated by tribal governments as they began to establish their own constitutions and codes. The legal structure of many tribal courts today is much the same as it was soon after passage of the IRA in 1934.

From 1934 to the present, tribal councils have remained central to tribal legal structures, and have continued to affect the administration of justice on many reservations. With the exception of the nine traditional Pueblos where the councils are appointed by the caciques, all tribes now elect council representatives. The effect of council participation in the selection of judges and in tribal court improvement is detailed elsewhere; however, it is important to note that judges are appointed in 64 tribal systems, and are elected by the tribal membership at large on only 19 reservations. Tribal councils are also involved in the appellate processes of a significant number of tribes. Twenty-seven of 67 tribes which described their appellate systems reported that the tribal council heard appeals from tribal court judgements. Significantly, 15 tribes reported having no appellate system, and even where such systems do exist, often they are not utilized.

Today, an overwhelming number of tribes—84 percent—have written constitutions. Of the 16 tribes which do not, nine are traditional Pueblos. All but 13 of the tribes for which information was available have law and order codes; nineteen use the Code of Federal Regulations, and 59 utilize written codes other than CFR. It is important to note, however, that the fact that only a very few tribes have revised their constitutions since they were first drafted is not attributable to tribal satisfaction with the status quo. More than two-thirds of the courts which provided information about their constitutions indicated that revisions were now desired or were in process. Only nine tribes indicated that they had not perceived the need for code revision or drafting in recent years.

Despite the fact that legal structures have remained relatively static during the past forty years, the responses of tribal judges indicated a strong desire for change. To the extent that technical assistance is made available to tribes in the near future, significant code and constitutional reform will occur. The relationships between tribal councils and tribal courts, already in transition, also seem likely to evolve as tribal courts develop in importance.

NUKE WASTE: AN ISSUE FOR THE TRIBES?

RADIO-ACTIVE WASTE DISPOSAL A BIG CONCERN TO LA FERNIER

"It scares me," were the first comments of Leo LaFerner, Red Cliff vice chairman, who recently returned from a conference on nuclear waste, sponsored by the Columbia River Inter-Tribal Fish Commission, Portland, Ore. However, LaFerner definitely sees an important and positive role for the tribes to play in relation to controversial nuclear waste issues.

LaFerner indicated that he is "scared" on several accounts. For one, he says, there is evidence that near or on several reservations in the west, nuclear or radioactive waste has not been disposed of safely. He cites photographs of children playing near piles of uranium tailings. Secondly, he feels that the currently proposed guidelines governing nuclear waste repository sites are inadequate.

Federally recognized tribes, he says, who have an "affected status" in relation to repository sites both have legitimate rights to protect their lands and a responsibility to be involved in the planning process.

Currently, the three sites most seriously under consideration for permanent nuclear waste repositories are located in the west—Texas, Washington and California—areas which contain salt dunes. However, LaFerner says that the western states are pushing for more consideration of lands with crystalline rock structures, such as those found in Wisconsin; and he anticipates the 1988 round of proposed repository sites will

include Wisconsin. In fact Wisconsin has been notified that two repositories for permanent disposal of high level radioactive waste are being considered in the state.

LaFerner points to the rights reserved to tribes through their treaties. Although they do not contain language regarding nuclear waste specifically, they are explicit about the right to protect Indian resources and health on ceded territories.

The 1982 Nuclear Waste Policy Act (NWPA) outlined a formal process of "consultation and cooperation" between the federal government and potentially affected tribes and states in the selection of nuclear waste repository sites. Under NWPA both states and tribes have the right to comprehensively explore the implication of a repository site within their boundaries, and if the site is located on their land, to veto the decision. However, LaFerner points out, the U.S. Congress can override either a state or tribal veto.

LaFerner feels that Wisconsin tribes, which may be affected under current proposals should consider joining with the State of Wisconsin and several other environmental groups against the U.S. Department of Energy (DOE) in regard to the inadequacy of the proposed guidelines.

In January 1985 the State of Wisconsin moved to intervene in the case already filed against DOE by the Environmental Policy Institute, Sierra Club, National Park and Conservation Association, Don't Waste Utah; Utah Wilderness Association, and Utahans Against the Dump.



The state indicates in its motion to intervene that the proposed guidelines "do not conform to the requirements of NWPA," of a licenseable repository site; and that DOE's implementation of those guidelines could lead to considering sites in Wisconsin "which are not adequate for development as a repository."

LaFerner says that several western tribes, including the Nez Perce, the Yakima Nation and the Confederated Tribes of the Umatilla Reservation are currently calling for an impact statement in regard to the proposed waste site in Hanford, Wash., near the Columbia River.

The State Radio-active Waste Site Review Board, which makes recommendations to the DOE, is meeting March 11 in Madison. LaFerner says the meeting should be of considerable interest to tribes and all state citizens because regional characterization reports will be included.

WCA RESOLUTION QUESTIONED

pensive lobbying efforts and litigation which has proven unsuccessful in other states.

The unexperience of Washington State in the last ten years should prove instructive. They have spent hundreds of thousands of dollars in litigation trying to abrogate treaties...and have gotten nowhere. Only lately, when have they begun to negotiate, instead of litigate, they have begun to form the basis for agreements which benefit all the groups which use the salmon fishery.

As Ron Wagner, member and lobbyist for CASTS (Concerned Anglers for Steelhead, Trout and Salmon), said in his presentation at the Lutheran Conference, "If we in the State of Washington had negotiated from the beginning instead of going to the courts, we would have had ten years and hundreds of thousands of dollars to improve the fish habitat. Instead we wasted it all in litigation."

The WCA Resolution #59 exists in a legal vacuum because it (impossibly) calls for unilateral, discriminatory, and *aposteriori* abrogation of reserved property rights which have been negotiated and signed in good faith by both the U.S. Government and the tribes. To undo this would change the entire corpus of property law in the United States. This is inconceivable...for instance, of all the mineral rights that were retained by the former owners when they sold their lands. This is the same thing that the tribes did when they reserved hunting, fishing and gathering rights when they sold their lands.

There are also certain practical considerations if abrogation of treaties (with minority citizens) could be accomplished. First, the American self-image of fair play and justice toward all would be destroyed. Secondly, American credibility abroad would be severely diminished. How could we offer the Third World our idea of democracy when we ourselves do not abide by it?

I believe that the Wisconsin DNR, with the full support of Governor Earl, and the tribes have proceeded to implement the Voigt Decision in a fair and cautious fashion through the use of negotiation. Other states, who are also concerned with treaty issues, have even sought advice from the DNR on the Wisconsin method of negotiation. The DNR is justifiably proud of becoming a model for other state governments in this matter. I doubt that the State of Washington has had many inquiries about their ten year history of failed litigation...except to find out what to avoid. We, indeed, can learn from them, yet the WCA resolution would put us back into the litigation dance all over again. A familiar aphorism may well apply in Wisconsin—"Those that fail to learn from history, are doomed to repeat it."

Since it is evident that the treaties are not about to be abrogated, and since the DNR's studies show that the tribal fish and deer harvest is well below what they are allowed, we must seek elsewhere for the motivation behind the WCA

The following letter, which ran in the March, 1985 edition of Wisconsin Counties magazine, has been reprinted with the permission of the author, Marvin O. Hunt.

Hunt, who is the vice-chairman of the Ashland County Board, has also been active in promoting a county/tribal committee between Ashland County and the Bad River Tribe.

TRIBAL/country issues— WCA Resolution 59

The Wisconsin Counties Association adopted Resolution #59 during its 1984 annual convention in Green Bay. This is a resolution urging Congress to limit reserved rights already granted to the tribes as part of the Treaties of 1837 and 1842. This is also the resolution that has made the WCA notorious among legal experts who know the solid legal status of Indian treaty rights and the universal failure of attempts to abrogate them.

Resolution #59 (sponsored by Burnett County) reads in parts as follows:

WHEREAS, agreements between the tribes and the Wisconsin Department of Natural Resources have proved ineffective to regulate these rights to the mutual satisfaction of the tribes and the public...

The fact is that the interim agreements negotiated by the tribes and the DNR have been outstandingly successful.

Carroll Besadny, Secretary of the DNR, said in a speech at the Equal Rights for Everyone, Inc., meeting November 29 in Minocqua, that "the tribal deer kill and/or fish harvest has posed no threat to effective game management or public safety." The facts are the tribes have taken far less than their game allotment under the interim agreements.

Another DNR official, Dave Jacobson, Director of the Northwest District, in his speech at the Lutheran Conference on Treaty Rights, held at Telemark in November, stated that the tribal deer harvest was "biologically insignificant," and had no effect on the deer population. In fact, the problem is not one of game management, but is a social problem, according to Jacobson. The truth is that no factual case can be made against the tribes that charges them with poor game management practices either in the inland fishery or in the deer harvest.

Despite the evidence, the WCA resolution negates the success of the DNR-tribal interim agreements, using hearsay, bar talk and supposition as positive proof. This, I submit, is morally and factually wrong and is motivated by something other than the search for truth.

The conclusion of the WCA resolution #59 reads as follows: THEREFORE BE IT RESOLVED that the Wisconsin Counties Association, in convention assembled, formally requests the U.S. Congress to enact legislation which would limit the usufructuary rights granted to Chippewa Indians by the Treaties of 1837 and 1842 to tribal and individual reservations and Indian trust lands.

The intent expressed above would lead to ex-

UPDATE

A meeting of the County/Tribal committee has been set for April 10th in Wausau. They will be meeting at Howard Johnson's in Wausau from 11 a.m. to 3 p.m. The agenda has not yet been set.

The committee was formed as a result of action taken at the Wisconsin Counties Association Treaty Rights Conference in June, 1984.

Representatives from the counties include Larry Glesman, Dane County; Charles Tollander, Burnett County; Tony Lorbetske, Oneida County; George Schroeder, Outagamie County; Al Skinner, Barron County; Tribal representatives include: Gene Taylor, St. Croix; Hillary Wauka, Menominee; Joe Corbine, Bad River; Richard Gumoe, Red Cliff; Jack Miller and William Wildcat, both with Great Lakes Inter-Tribal Council.

If anyone has concerns for the committee to consider, please contact a committee member.

NTCA CRITICAL OF RESERVATION ECONOMIC REPORT

EAU CLAIRE, WI—The Presidential Report on Indian Reservation Economies, sent to President Reagan on November 30, 1984, is getting widespread criticism.

Leading critic, Elmer Savilla, of the National Tribal Chairman's Association outlined his concerns at a recent inter-tribal assembly in Eau Claire.

The basis of criticism stems from a special NTCA meeting in January where over 100 tribes drafted a response to the PCIRE.

Of the 37 recommendations, NTCA agreed with only five. Savilla went over the entire report, highlighting for the tribal leaders in the Great Lakes specific concerns.

Savilla saw the report as a partisan effort which could be viewed as a move to do away with tribal governments.

"The recommendations are almost parallel to anti-Indian sentiments," charged Savilla. "Tribal governments are in very grave danger."

On the heels of Savilla's comments came additional bad news from LCO Chairman, Rick St. Germaine, who had just returned from Washington, D.C. to review the current FY '86 budgeting process.

In a memo distributed to tribal leaders, St. Germaine said that Reagan's FY '86 budget "will have a grievous impact on the well-being of American Indian tribes."

Major cuts and discontinuation of some programs in health, education and housing occupied much of the debate. St. Germaine, who distributed extensive budget notes, called on each tribal leader to let their representatives know how these cuts will effect tribal people.

A total of ten resolutions were passed on the final day of the inter-tribal assembly. These include seven on retaining educational funds, one on Indian Health Service, one supporting legislation on Indian gaming, and one supporting land claims distribution for the Saginaw Chippewa.

A final report on the Four-State Inter-tribal Assembly is being prepared by the Great Lakes Inter-Tribal Council.

The NTCA will make final recommendations on PCIRE at their mid-year meeting in April.



Roger Jourdain cautions leaderships at Eau Claire intertribal assembly. Perennial chairman of the Red Lake Chippewa and outspoken critic of the BIA urges tribal

leaders to keep an eye on the feds. Jourdain was one of the speakers critical of the Presidential Commission Report on Indian Reservation Economies.

RIGHTS COUNCIL ENCOURAGES COMMUNICATION

Dear Concerned Citizen:

On behalf of the Wisconsin Equal Rights Council, I would like to express my appreciation to all the individuals and groups that participated in the meeting on Indian-white relationships at the Courthouse in Hayward on the very cold January 19. The large number of people that attended despite the inclement weather, the wide ranging discussions and the excellent presentations provided an atmosphere of communication.

Reviewing the situation in Northern Wisconsin, we find that there are many areas of communication available and hope that representatives of the governing bodies including tribal chiefs and county board representatives as well as other interested citizen groups will utilize some of these communication areas:

Here are examples of communication steps that have been taken and resources available to bring people together:

Wisconsin Counties Association committee on Tribal relations. This committee consists of representatives of four county boards; Burnett, Oneida, Dane and Outagamie, plus the tribal chairmen for the St. Croix, Bad River, Red Cliff, Menominee and Stockbridge-Muncie tribes. A meeting has been scheduled for the spring.

Hayward Lakes Association has called for a meeting with LCO to discuss mutual interests.

The Great Lakes Inter-tribal Council meets the third Thursday of each month in Lac du Flambeau. William Wildcat, P.O. Box 9, Lac du Flambeau, is the chairman.

The Indian Fish and Wildlife Commission is concerned with protection of Indian rights including hunting, fishing and gathering and also with the preservation of resources. Ray DePerry is executive director and can be reached at P.O. Box 9, Odanah, WI 54861.

The Wisconsin Council of Churches supports the Wisconsin Indian Resource Council. Stan Webster, telephone number (715) 346-2039, at Stevens Point, is the chairman.

The Hayward School Board has invited the LCO tribe to make a presentation on Indian educational needs.

The Birkebeiner Ski Foundation has proposed joint activities to develop area recreational programs.

Dr. David Wrone's presentation on the history of treaties is an excellent document and various tribal leaders and educators can provide presentations on treaty rights and related issues. Reprints of The Milwaukee Journal's series on Hunting and Fishing Rights are available for distribution. A copy is enclosed.

The hostility over the hunting and fishing rights problem and the racism that accompanies this situation is a problem in Northern Wisconsin, and we on the Council believe that local groups and local organizations should take the leadership in solving these problems. The Council does not have the resources or the staff to attempt to set up and direct a series of such meetings.

As outlined above, there are many areas of communication available. We hope that interested citizens will take advantage of them.

I would appreciate your reaction to this letter with specific suggestions that you may wish to make. Where can we find leadership for a reconciliation effort? The Council stands ready to cooperate in any practical way in helping to bring people together.

Thank you again for your help and interest.

Sincerely yours,

Harold A Schwartz
Chairman
Wisconsin Equal Rights Council



Dr. Rick St. Germaine bends over a pile of messages as moderator of the recent intertribal assembly in Eau Claire. Speaking is Elmer Savilla, Executive Director of the National Tribal Chairman's Association.

COMMISSIONERS ATTEND INTER-TRIBAL ASSEMBLY

EAU CLAIRE—A four-state inter-tribal assembly drew tribal leaders to two days of discussions. During the assembly, the Great Robes Indian Fish & Wildlife Commission held a special meeting.

At the Thursday night session, the final budget to be submitted to the Bureau of Indian Affairs was acted on by the Commissioners. Each tribe must now ratify this final budget proposal before it is negotiated with the B.I.A. This Commission budget, when ratified, will run from March-1985 through March 1986.

In other action, the Commission agreed to seat a delegate with the Wisconsin Indian Resource Council. Walt Bressette, Commission Public Information Officer, was named as the WIRC delegate.

Additional discussions centered on Commission involvement in environmental issues, including mining, contamination of the Great Lakes, oil drilling and nuclear waste.

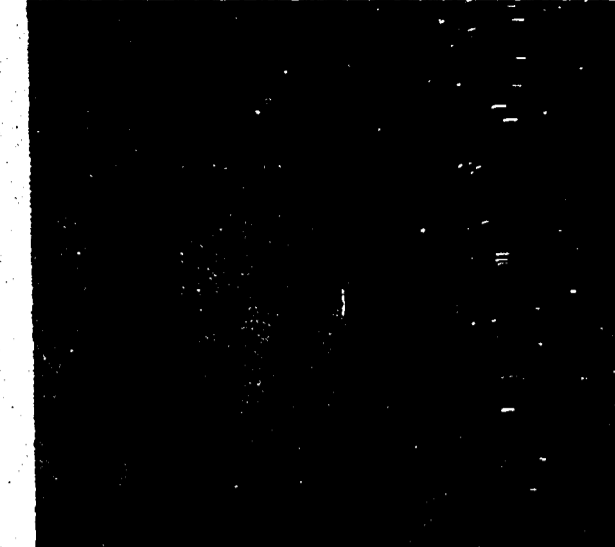
An environmental biologist is part of the budget proposal; and if okayed by the B.I.A., the Commission will establish an environmental department.

NATIVE AMERICAN FISH AND WILDLIFE SOCIETY



From Native American Fish and Wildlife Society articles of incorporation:
Formation of this society incorporates more than a present-day commitment to fish and wildlife resources. It represents a dedication to the earth that began with our own beginning, and a pledge to our fellow creatures that cannot be broken. The Native American Fish and Wildlife Society is founded on the knowledge that without wild animals our life would be deprived and demeaned. They move with us through the great mystery of creation. "What is man without the beasts?" wrote the Duwamish tribe's Chief Sealth in 1855. "If all the beasts were gone, men would die from great loneliness of spirit, for whatever happens to the beast also happens to man. All things are connected."

Cobell Comments on Society's Role



The national meeting of the Native American Fish and Wildlife Society is set for May 20-22 in Duluth, Minnesota. At last year's session in Warm Springs, Oregon and at a recent planning session in Denver, NAFWS president, Buzz Cobell, talks about the society.

"We need to recapture the idea that Indians are the best environmentalists," Cobell commented in a planning meeting for this year's annual conference. "It will be important that NAFWS helps set this philosophical tone if we expect non-Indians to support tribal efforts."

Cobell, as the NAFWS president, finds himself at the forefront of treaty rights issues. So far, he has succeeded in juggling the role of president, while completing his master's in biology.

Despite the time and budget constraints, he and a handful of others saw the necessity of organizing the society. In recent months, he's concluded that it's essential that NAFWS do even more as new tribal resource management programs develop and evolve in the midst of federal cutbacks and growing anti-Indian sentiment.

The society was hatched in July of 1981 at a training workshop at Warm Springs. A subsequent meeting in Denver in April 1982 furthered the development. At that time, U.S. Fish & Wildlife Service was withdrawing support for tribal hatcheries. Another workshop in July, 1982 moved the process closer to reality.

In February, 1983 an ad hoc committee was formed following another meeting in Great Falls, Montana. The first official meeting of the NAFWS was held in March, 1983 in Phoenix. The rest, as they say, is history. However, Cobell and his colleagues see a need and plenty of room to grow.

At the annual conference in Warm Springs last year, Cobell cited the *Outdoor Life* magazine campaign as a return to a frontier mentality. "We are going to see more pressure on Indian lands," he told to conferees.

Cobell and the other NAFWS Board members continue looking for funding sources. Despite no staff, Cobell sees a need to expand communications and to continue providing training for tribal members.

"There is a void, no place to send tribal officers outside of the university setting," he said. "We used to be able to send people to Brigham City, Utah for law enforcement training but that is no longer available."

It is expected that securing funding for a staff will be high on this year's business agenda. In addition to various training, Cobell saw the need to publish more material which shows the variety of efforts that tribes are involved in nationwide.

"A close knit group of professionals working with fish and wildlife resources on Indian lands can help show that our survival will benefit the whole country," said Cobell. "We need to talk preservation, conservation and protection for our people and our cultural ties."

"Because of growing anti-Indian groups, we need to have better communications with the public. However, response requires a full-time effort and, unfortunately all of our officers have full-time jobs. Yet, editorials, initiatives and other racist efforts are continuing.

"We need to join with environmentalists in assuring that sound resource management is secured. In the end, all people concerned with natural resources are going to be concerned with Indian issues."

NATIVE AMERICAN FISH & WILDLIFE SOCIETY

For more information write NAFWS, P.O. Box 1480, Window Rock, Arizona 86515, or call John Antonio, Secretary, 602/871-4941.

FISH & WILDLIFE SOCIETY ANNUAL CONFERENCE

Plans are progressing for the third annual conference of the Native American Fish & Wildlife Society scheduled for May 20-22 at the Radisson in Duluth, Minnesota.

At the 1984 conference in Warm Springs, Oregon it was decided to hold the next national meeting in the Great Lakes area. The Great Lakes Indian Fish & Wildlife Commission, headquartered on the Bad River Chippewa Reservation, has agreed to help coordinate the conference.

The conference is designed to provide information exchange between tribal resource managers. The conference agenda will include technical papers, program presentations and comments by national tribal and federal representatives.

Included on this year's agenda is resource management, enforcement and codes; a fish and wildlife symposium; federal Indian policies and legislative updates; intertribal and commission relations; and, a look at who are friends and foes to tribal resource management programs.

Outlines of technical papers and program presentations are currently being accepted. Dwight Wilcox, White Earth Chippewa is heading up an agenda committee for final conference recommendations.

For additional information write NAFWS Conference Coordinator, Great Lakes Indian Fish & Wildlife Commission, P.O. Box 9, Odanah, Wisconsin 54861 or call Walt Bressette, 715/682-6619.

WHAT IS THE NATIVE AMERICAN FISH AND WILDLIFE SOCIETY?

The Native American Fish and Wildlife Society (NAFWS) is a non-profit organization comprised of individuals dedicated to serving the needs of the Native American Fish and Wildlife resources. The NAFWS was approved and incorporated by the Colorado Corporation Commission on July 18, 1983.

WHY WAS THE NAFWS FORMED?

The Native American Fish and Wildlife Society was begun in recognition of the importance and respect accorded to fish and wildlife by Native Americans and of the need for a national native organization to aid in the development and protection of Indian fish and wildlife resources. Formation of this society incorporates more than a present-day commitment to those resources. It represents a dedication to the earth that began with our own beginning, and a pledge to our fellow creatures that cannot be broken. The NAFWS is founded on the knowledge that without wild animals our life would be deprived and demeaned. They move with us through the great mystery of creation "What is man without the beasts?" wrote the Duwamish Tribe's Chief Sealth, in 1855. "If all the beasts were gone, men would die from great loneliness of spirit, for whatever happens to the beast also happens to man. All things are connected."

WHAT ARE ITS PURPOSE?

The purposes of the society are exclusively charitable and educational and shall be:

- To provide an organization for the better facilitation and coordination of inter-tribal communication concerning fish and wildlife matters, including treaty rights issues, court cases related to fish and wildlife, and fishing and hunting regulations;

- To assure the protection, preservation, conservation and prudent use and management of tribal fish and wildlife resources;

- To educate Native Americans involved in fish and wildlife management and others similarly dedicated to the protection, preservation, enhancement and prudent use and management of Indian fish and wildlife resources;

- To provide administrative support for and provide expertise and advice to tribal governments relating to the protection, preservation, enhancement and prudent use and management of tribal fish and wildlife resources;

- To improve the general welfare of Indian people through educational, charitable, and fish and wildlife related activities; and

- To provide a publication for disseminating pertinent information, issues and solutions occurring in Indian country regarding Native American fish and wildlife resources.

WHAT TYPES OF MEMBERSHIPS ARE AVAILABLE?

Tribal Membership: Any tribal government dedicated to the protection, preservation, enhancement and prudent use and management of tribal fish and wildlife resources.

Individual Membership: Any Native American person dedicated to the protection, preservation, enhancement and prudent use and management of tribal fish and wildlife resources.

Affiliate Individual Membership: Any Non-Indian individual with an interest in the furtherance of the objectives of the society. These individuals are eligible to become contributing members but are not eligible to vote.

Affiliate Organization Membership: Any organization with an interest in the furtherance of the objectives of the society. These organizations are eligible to become contributing members but are not eligible to vote.

TWO YEARS FOR TASK FORCE



Voigt Task Force busy in '85. Jim Schlender, Commissioner from Lac Courte Oreilles is also the chairman of the Voigt Inter-Tribal Task Force. At the January Commission meeting, he gave a report on Task Force Activities for calendar 1984.

Jim Schlender, chairman of the Voigt Inter-Tribal Task Force, gave a written report to the Great Lakes Indian Fish & Wildlife Commission at the January meeting in Baraga, Michigan. The following is a summary of that report.

The Task Force formed in February of 1983 following the January 1983 federal court decision affirming off-reservation treaty rights of the Lake Superior Chippewa. Participant members include Red Cliff, Bad River, St. Croix, Lac Courte Oreilles, Lac du Flambeau and Mole Lake in Wisconsin, Mille Lacs in Minnesota, and Keweenaw Bay in Michigan.

The Task Force became a chartered committee of the Commission in June of 1984. According to the committee charter, the task force is charged with the implementation of the "Voigt" decision. This includes on-going litigation,

SCHLENDER COMMENTS

continued from page 1

the negotiating sides and that a mediator can alleviate some of that. It would also allow parties to "float trial balloons" without taking a position.

Speaking of the 1985 open-water negotiations prior to their commencement, Schlender said that many of the same topics will dominate discussion, however, experience gives rise to new items of negotiation. For one, Schlender feels the '85 permit was very restrictive during the deer season. The fact that tribal hunters only took 29 more deer in 1984 than they did in 1983 should indicate that the regulations could be less restrictive for 1985.

In regard to the DNR's Advisory Committee, Schlender feels that citizens often come with a lack of understanding of what is negotiable. He says that the DNR staff must explain what is negotiable and should not expect the tribes to "kowtow" to public opinion.

IMPACT OF VOIGT ON THE COMMUNITY

Schlender feels that much of negative public reaction could have been alleviated had the DNR been more effective in explaining the Voigt Decision from the onset. The media, he says, has also been responsible for promoting negative reactions. He cites, for instance, the conclusion of the 1983 gun season, with a harvest of 644, and the cry "the Indians are liars." This year in 1984, we're called lazy, he says.

Schlender attributes both tradition and white backlash to limited use of treaty rights. Citing ice fishing in '83 and '84, he noted that only ten people availed themselves of the right and most of them only fished 100 yards off the reservation boundary line. This he said may be because they have been denied the right since 1894 and continue to fish where they are accustomed. However, he commented that threats and "reckless" statements are "chilling factors" for individuals to consider when going out to exercise their rights.

Schlender feels that the work of the Ad Hoc Commission on Racism and the Equal Rights Council was valuable in that they finally "got the attention of people capable of forming disinterested objective conclusions."

development and implementation of natural resource management plans, off-reservation regulations, and handling negotiations with Wisconsin DNR.

The Task Force hired two biologists and began public information efforts in 1983 which were subsequently turned over to the Commission. And additional focus was on the development of several natural resource codes resulting from WDNR-Task Force negotiations. These include:

- 1984 Ice Fishing Ordinance
- 1984 Trapping Ordinance
- Open Water Fishing Ordinance (1984)
- Deer Hunting Ordinance (1984)
- 1984-85 Trapping Ordinance
- Small Game Ordinance
- 1984-85 Ice Fishing Ordinance

The net results of these ordinances is to show the inter-tribal capability to regulate while protecting the resources, acknowledge the state's share in these resources, and to allow tribal members to exercise their rights.

The judicial system to hear these ordinances is continuing to develop. By the end of 1984 all Wisconsin Chippewa tribes had passed tribal court codes authorizing them to adjudicate off-reservation legal matters. The Task Force arranged judicial training where eight tribal judges went through a ten-day course at the National Judicial College in Reno, Nevada.

In May and June of 1984, tribal wardens were put in place to enforce the off-reservation codes. There are currently six tribal wardens plus one Supervisory Warden. The 1984 effort to enjoin the state from enforcing state law resulted in Judge Doyle's opinion that an expanded and better trained warden force was essential to exclusive enforcement jurisdiction in off-reservation activities. The Task Force is currently working on expansion and to develop a better working relationship with WDNR wardens.

The Task Force is working with WDNR to amend State law to enhance existing wild rice resources. And, initial discussions are underway, with WDNR and U.S. Fish & Wildlife Service on off-reservation waterfowl seasons.

In order to arrive at a negotiating position, the Task Force has technical committees for each species and season. This process was initiated for

the 1984 ice fishing agreement and has been used for all subsequent agreements. The head tribe for the technical committee also is the lead negotiator with the DNR.

An additional change in negotiations includes a mediator, beginning with the 1985 open water fishing negotiations. The Wisconsin Department of Labor and Industry Relations is providing funds for the mediator.

Trial has been scheduled for the remaining questions of the Voigt decision. These include:

- Identification of the kinds of resources subject to the treaty;
- Identification of the uses, i.e. commercialization or not;
- Resource allocation;
- Actual territory where treaty rights can be exercised.

As part of trial preparation, expert witnesses in the fields of anthropology/archeology and natural resource economy have been contacted. In addition, fisheries and wildlife biologists have been contacted in the development of overall resource management plans for fisheries and wildlife.

These two biologist consultants will aid in the still unscheduled portion of the case, which will determine the scope of valid state regulatory power over off-reservation treaty activity.

Although task force activity by necessity have focused on ceded territory in Wisconsin, both Mille Lacs and Keweenaw Bay have benefited from the interim agreements. The Task Force has also offered assistance to Michigan and Minnesota tribes in securing ceded territory in their respective states.

Non-Indian backlash has been voiced which required widespread responses. Meetings with elected officials, public forums, media interviews, debates and testimony have been part of the Task Force's activities.

The Task Force chairman has taken on an expanded role as the responsibilities grow. Currently, it requires 15-20 hours weekly.

In conclusion, Task Force members should be commended for the many days on the road, in meetings, and the development of tribal positions. The success of the Task Force "is therefore an outstanding example of the accomplishments that inter-tribal organizations can effectuate."



Paperwork part of being a Commission. (Left) Arlyn Ackley, Mole Lake Tribal Chairman goes through some of the written reports presented at the Commission

meeting. Next to him is Tom Maulson, Lac du Flambeau tribal judge and lead negotiator for the 1985 Open-Water sessions with WDNR.

Schlender agrees with the conclusions reached by the above-mentioned groups, that "racism is rampant in the north." He feels that considerable responsibility should be laid at the doorstep of the Department of Instruction and that they need to consider the recommendations outlined in the Ad Hoc Commission's final report.

Schlender does feel that the public has come a long way since the Voigt Decision was first announced. He says people can now see that Equal Rights for Everyone, Inc., for instance, is a "radical, non-thinking group." Schlender says that they waged a campaign of misinformation and lies and that their idea of an "open-mind" is to have holes in their heads. Schlender says that the leaders of the group have been on an "ego trip" and seek primarily not to lose power over dependent Indian people.

"We are reaching out to rational people," Schlender says, "people willing to look at facts." Unfortunately, he says, scare tactics were used and have been effective in passing the Sawyer County referendum and Washington State Initiative 456.

TRIBES, TREATIES AND THE FUTURE

"As people learn, we will move ahead," says Schlender. Schlender views the tribes in state of "forward movement" toward effective self-regulation. We want to make our own rules and be ruled by them and be responsible for good management of the resources.

And the tribes are moving into more responsible roles, he notes, as with the fish hatcheries where the tribes are involved in replenishing the resources.

He also sees a need to expand and strengthen relationships with other environmental agencies, such as the Sierra Nevada Club and would like to see more efforts directed this way in 1985.

Schlender feels that the tribulations of change will have to be undergone, including internal struggles and political in-fighting, but that it is important "to fight in ways not to divide ourselves." And perhaps, more importantly, he says, we have to remember the principle of having rights and "that principle needs to be defended."